

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action
)	No. 13-10200-GAO
)	
DZHOKHAR A. TSARNAEV, also)	
known as Jahar Tsarni,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE

JURY TRIAL - DAY THIRTY-FIVE

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts 02210
Wednesday, March 18, 2015
9:47 a.m.

Marcia G. Patrisso, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

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	<u>EXHIBIT</u>			
23	831	Photograph		15
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964	Explosive recovered from Laurel Street		24
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P R O C E E D I N G S

THE CLERK: All rise for the Court and the jury.

(The Court and jury enter the courtroom at 9:47 a.m.)

THE CLERK: Be seated.

THE COURT: Good morning, jurors.

THE JURORS: Good morning.

THE COURT: Again, we appreciate your patience. The lawyers and I were discussing some issues.

Mr. Mellin?

MR. MELLIN: Good morning, your Honor. The United States calls Robert McCarthy.

ROBERT McCARTHY, duly sworn

THE CLERK: Have a seat.

THE WITNESS: Thank you, sir.

THE CLERK: State your name, spell your last name for the record, keep your voice up and speak into the mic so everyone can hear you.

THE WITNESS: Robert McCarthy, M-C-C-A-R-T-H-Y.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. MELLIN:

Q. Good morning, sir.

A. Good morning, sir.

Q. Where are you employed?

A. I'm employed with the Massachusetts State Police.

1 Q. And what is your rank?

2 A. I'm a trooper.

3 Q. How long have you been with the Massachusetts State
4 Police?

5 A. Nineteen years.

6 Q. During those 19 years, generally what has been your
7 assignment?

8 A. I've been assigned to the road, field, assigned to the
9 state fire marshal's office investigating origin and cause of
00:06 10 fires, and also assigned to the bomb squad.

11 Q. How many years were you on the road?

12 A. I was on the road for approximately four years. Three,
13 four years.

14 Q. And at some point you were investigating fires and arsons.
15 How long did you do that?

16 A. I did that for six and a half years.

17 Q. And then also bombs. When did you begin investigating
18 bombs and explosives?

19 A. I was transferred to the bomb squad in 2005.

00:07 20 Q. And what exactly is the bomb squad?

21 A. It's basically the hazardous devices unit. We respond to
22 suspicious packages, explosive devices across the Commonwealth
23 of Massachusetts. I also handle an explosive canine, so I do a
24 lot of sweeps, protective sweeps, dignitary sweeps.

25 Q. Have you been on the bomb squad since 2005?

1 A. Correct.

2 Q. So going till April of 2013, about eight years in the bomb
3 squad up to that point?

4 A. Yes, sir.

5 Q. Okay. You mentioned a canine. What is a canine?

6 A. It's an explosive dog. I handle a black Labrador.

7 Q. And what does the dog do?

8 A. It's trained to sniff for explosives.

9 Q. In April of 2013, were you working in the bomb squad at
00:08 10 that time?

11 A. Yes, sir.

12 Q. And on the night of April the 18th of 2013, what were you
13 doing?

14 A. That evening we were winding down for the day. And I was
15 up at the bomb squad command post that was set up at the Lenox
16 Hotel.

17 Q. At some point did you get information there had been a
18 shooting at MIT?

19 A. Yes, sir.

00:08 20 Q. What did you do in response to that?

21 A. We were requested to respond with the explosive dogs over
22 to the scene of the shooting.

23 Q. And what did you do with the dogs at that scene?

24 A. We swept the area because -- explosives and also weapons,
25 guns, ammunitions is low explosives, so the dogs are also

1 trained to smell for weapons and evidence at a scene of a
2 shooting.

3 Q. Generally how do you sweep something with the dog?

4 A. There's two different ways with a dog. We could detail
5 the dog to certain areas, or we put them on a long leash and we
6 just let them go walk the area, sniffing the ground looking for
7 items.

8 Q. At MIT did the dogs alert on anything?

9 A. No, sir.

00:09 10 Q. Okay. After you went to MIT, what happened?

11 A. We were ready to secure at MIT, we were informed that
12 there was a carjacking over the river on the Cambridge side.
13 So we just got -- I got in my vehicle and we just started
14 heading over towards the Cambridge-Watertown area.

15 Q. Why did you head towards that area?

16 A. Just to split up, see if we could locate the carjacking.

17 Q. What happened as you were proceeding towards Watertown?

18 A. We were informed that the Watertown police were behind the
19 vehicle --

00:09 20 Q. Did you --

21 A. -- that matched the description of the carjacking.

22 Q. Did you respond to that area?

23 A. I did, sir.

24 Q. What happened?

25 A. At that time there was multiple radio calls of shots

1 fired. "They're throwing bombs at us. We need the bomb
2 squad." And we happened to be a few blocks away at the time.

3 Q. As you rolled up on the scene, can you describe what you
4 saw and heard?

5 A. Yeah. When we rolled up on the scene there was a lot of
6 police activity on the Laurel Street area. We ended up going
7 by Laurel Street onto Cypress Street. At that time we heard
8 what we believed to be some type of explosion, and we saw some
9 smoke in the street lamps.

00:10 10 Q. Can you describe the explosion?

11 A. We were in the truck. There was so much chaos on the
12 radio and everything, we just -- from where we were, we just
13 heard like a loud pop and then we saw smoke in the area. We
14 didn't know exactly where it was coming from.

15 Q. When you say you were in the truck, what do you mean?
16 What kind of truck?

17 A. I was in a bomb truck which is basically just a Ford F-350
18 with -- has all our equipment in the back of it.

19 Q. When you got to that scene, what did you do?

00:10 20 A. There were other police officers on Cypress Street. They
21 basically jumped out in front of us. They recognized the
22 vehicle. They said, "They're throwing bombs at us." I said,
23 "We know, we heard it." At that time they pointed up a
24 driveway. We attempted to go up that driveway. At that time,
25 you know, we heard gunfire. We didn't know where it was coming

1 from. So we retreated back to the vehicle, back to the truck.

2 Q. At some point did the gunfire stop?

3 A. We proceeded -- we tried to get over to that area but we
4 could not due to the roads being blocked by other police
5 cruisers. We went around to School Street, I believe it was.
6 And then at that time there was multiple, multiple calls that
7 "We need the bomb squad." "We need the bomb squad."

8 We had other bomb squad members responding to the scene.
9 At that time I was requested to respond up to Mount Auburn
00:11 10 Street for suspicious items in the road.

11 Q. How far away is Mount Auburn from Laurel?

12 A. I would say it's within a mile.

13 Q. Did you go to Mount Auburn?

14 A. I did go to Mount Auburn Street.

15 Q. Anything happen there?

16 A. There were multiples. I assisted another trooper assigned
17 to the bomb squad. He had a cardboard box that was in the
18 middle of the road. Still there were multiple calls so we
19 rather than x-ray the item like we usually do, we just did a
00:12 20 general destruction with a water cannon on it to open the
21 package up.

22 Q. Okay. What do you mean by that?

23 A. We just want to disrupt the package, see what the contents
24 of it are. So we have -- basically it's like a shotgun but we
25 can shoot water out of it. So we shot -- you know, it's like a

1 water cannon. And we shot it at the suspected item, the
2 cardboard box, which opened it up and displaced all the
3 contents.

4 Q. So that was not a bomb, as it turned out?

5 A. No, it turned out to be nothing.

6 Q. Okay. So did you then go back to Laurel Street?

7 A. Yeah, then I was requested to make my way down to the
8 intersection of Laurel and Dexter Street, that they had
9 potentially a couple of live devices in the middle of the
00:12 10 roadway and also a suspect vehicle that they wanted us to
11 clear.

12 Q. By that time had the Mercedes SUV left the scene?

13 A. Yes.

14 Q. So as you got back to that scene, what happened?

15 A. Basically we started coming up with an operational plan
16 with the devices in the road, should we render them safe where
17 they are or try to transport them to a safer location. We also
18 wanted to clear the vehicle. And we were informed that, you
19 know, there might be suspects in the area. So we wanted to
00:13 20 determine how we were going to potentially deal with these
21 devices in regards to our own safety and the safety of the
22 residents.

23 Q. And the vehicle you're talking about, is that the Honda
24 that was still left in the street?

25 A. Yes, sir.

1 Q. Okay. You mentioned rendering something safe. What does
2 that mean?

3 A. It would mean -- we were told there were potential pipe
4 bombs in the middle of the road that were still live, still be
5 able to be functioned. We have different tools to render them
6 safe. Basically, open them up, vent them. Basically, rather
7 than shoot water at it, we shoot some other round at it to open
8 them up. At that time it was determined that we did not want
9 to render these items safe where they were, we wanted to --

00:14 10 Q. Why not?

11 A. Just for the safety -- there were still residents in their
12 homes. We were informed there was a suspect in the
13 neighborhood. So rather than potentially, you know, secure
14 these items and render them safe in the middle of the road, we
15 determined that we were going to transport them to another
16 location.

17 Q. How is it you would go about picking up these items that
18 were out on the street?

19 A. We did it robotically.

00:14 20 Q. If I could have you look first at Exhibit 831.

21 MR. MELLIN: Just for the witness.

22 Q. Do you recognize Exhibit 831?

23 A. I do, sir.

24 Q. And, Trooper McCarthy, what is that?

25 A. That belongs to the Cambridge Police Bomb Squad. It's

1 basically a truck pulling the trailer, and on the trailer, we
2 call that a TVC, which is a total containment vessel, basically
3 a bomb pod.

4 Q. If you can hold on for one second. Is that a fair and
5 accurate photograph of that TVC on the street?

6 A. Yes, it is.

7 Q. From April the 19th?

8 A. Correct, sir.

9 MR. MELLIN: Your Honor, I would move into evidence
00:15 10 and ask to publish Exhibit 831.

11 MR. WATKINS: No objection.

12 THE COURT: Okay.

13 (Government Exhibit No. 831 received into evidence.)

14 BY MR. MELLIN:

15 Q. All right, Trooper. You were about to talk about what the
16 TCV is and what we see in Exhibit 831. If you could for the
17 ladies and gentlemen, where is -- the vehicle towards the left
18 of this photograph, what is that?

19 A. That is the Cambridge Police Department's bomb squad
00:15 20 vehicle.

21 Q. And then what is the item behind that?

22 A. That's their trailer, and on the trailer is their total
23 containment vessel.

24 Q. And what exactly is a total containment vessel, or a TCV?

25 A. It's basically a bomb pod. We can put explosives in

1 there, close it up, transport them to another location. If the
2 explosives were to go off, these vessels are able to withstand
3 the blast.

4 Q. And is that actually the way these two pipe bombs were
5 transferred?

6 A. Yes, sir.

7 MR. MELLIN: If I could have just the trooper look at
8 832, please.

9 Q. Do you recognize Photo 832?

00:16 10 A. Yes, sir.

11 Q. What is that?

12 A. On the right-hand side is a vehicle belonging to the
13 Boston Police Department's bomb squad, in the middle of the
14 roadway is one of our robots, and on the left is the same
15 vehicle from a different angle. That's the Cambridge Police
16 Department's bomb truck.

17 Q. Is Exhibit 832 a photograph that is a fair and accurate
18 photo of the events that occurred on April the 19th, 2013?

19 A. Yes, sir.

00:17 20 MR. MELLIN: Your Honor, I would move into evidence
21 and ask to publish Exhibit 832.

22 MR. WATKINS: No objection.

23 THE COURT: All right.

24 (Government Exhibit No. 832 received into evidence.)

25 BY MR. MELLIN:

1 Q. Now, sir, just for the jury, you were mentioning that to
2 the right of the photograph is what?

3 A. That is -- it's similar to our bomb trucks that we have
4 but that belongs to Boston Police Department's bomb squad.

5 Q. And in the middle what do you see?

6 A. That is one of our robots.

7 Q. And then to the left you were describing -- what is that
8 truck?

9 A. That's the Cambridge Police Department's bomb squad
00:17 10 vehicle.

11 Q. Okay. Now, looking at the robot, how is it that you use
12 the robot to acquire the devices?

13 A. Basically, they handle from like almost a computer. And I
14 believe that's what's on the table, the drawer to the right on
15 the vehicle, the Boston bomb squad, where someone would operate
16 it remotely, from a laptop almost.

17 Q. And then if I could have you look at Exhibit 833. Do you
18 recognize Exhibit 833?

19 A. Yes. This is a -- this is a different robot than the
00:18 20 other one in the other picture but that is one of our other
21 robots.

22 Q. And is that also a fair and accurate photograph of what
23 was going on on Laurel Street on April the 19th of 2013?

24 A. Yes, sir.

25 MR. MELLIN: Your Honor, I would move into evidence

1 Exhibit 833 and ask to publish that.

2 MR. WATKINS: No objection.

3 (Government Exhibit No. 833 received into evidence.)

4 BY MR. MELLIN:

5 Q. Trooper, as you look at Exhibit 833, you said the robot
6 that we see is different from the other robot, correct?

7 A. Correct.

8 Q. Do you see an item in the middle of that photograph?

9 A. Yes.

00:19 10 Q. And what is that?

11 A. I believe that is one of the suspected explosive devices.

12 Q. Okay. And what does the robot do with that device?

13 A. Well, this robot in particular has four cameras on it. So
14 the operator is probably looking at the device, and then
15 towards the front of the robot is where it has grippers, and
16 almost like a robotic hand.

17 Q. If you could just for -- just touch the screen. You can
18 touch the screen with the pad of your finger. If you could
19 just circle these grippers that you're referring to.

00:19 20 A. (Witness complies.)

21 And there's a camera right above the grippers.

22 Q. And so what do the grippers do?

23 A. It's basically like a hand. It opens and closes, and it
24 can pick items up, drag items, you know, numerous different
25 things.

1 Q. So did this robot pick up that explosive device?

2 A. Yes, eventually it did.

3 Q. Okay. What do you do to make sure that no one is affected
4 if this robot picks up a device that goes off?

5 A. Basically we clear out the area, and that's why it's done
6 remotely by the operator.

7 Q. And then what does the robot do with the device once it
8 picks it up?

9 A. It depends on the situation. A lot of times it carries it
00:20 10 to a safer area where we might have, you know, put sandbags out
11 and moved it over to that area. But in this case it was
12 transported to the total containment vessel and placed inside
13 the total containment vessel.

14 Q. That's one of the devices. You mentioned there was a
15 second device as well. Is that right?

16 A. Correct, sir.

17 Q. And what happened to that device?

18 A. That was also put into the total containment vessel. Both
19 items were put in the same vessel.

00:20 20 Q. Once they were put into the vessel, what happened?

21 A. They were transported to a safer location out at Moon
22 Island out where the Boston Police Department has their gun
23 range.

24 Q. Where's Moon Island?

25 A. You go through Quincy. It's by Quincy. It's out over in

1 the Boston Harbor.

2 Q. And what happened once the devices went to Moon Island?

3 A. That vehicle in the total containment vessel stayed there,
4 was secured there.

5 Q. Okay. At some point were these devices investigated or
6 rendered safe?

7 A. On Saturday morning --

8 Q. The 20th?

9 A. -- I believe it was the 20th, I went out there with
00:21 10 members of the Boston Police Department's bomb squad and
11 members of the FBI, who are also bomb techs, to render these
12 items safe.

13 Q. And how was that done?

14 A. We basically wanted to preserve them for evidence, so we
15 came up with the idea, we had a vice, and we put a vice on top
16 of a piece of plywood and secured that to one of the posts that
17 was out at the range. And we were going to remove the items
18 robotically, place them in the vice, and then tighten the vice
19 to hold the suspected items.

00:22 20 And these pipes were -- we call it they were internally
21 threaded, so the threads were on the inside of the pipe, and it
22 did have like an area on the outside of the end cap where we
23 could grip that with another robot and unscrew it robotically.

24 Q. Were you able to unscrew it without it exploding?

25 A. Yes, sir.

1 Q. Then what happens?

2 A. We basically had a non-static plastic bag taped underneath
3 the vice, and then when the cap came off, the powder would fall
4 into the evidence bag.

5 Q. If you can just generally describe how would one of these
6 devices work? How would it explode?

7 A. Basically, it's an explosive train. You've got to ignite
8 the powder inside, usually with the fuse. Sometimes it's
9 electronically, sometimes it's with a hobby fuse. And when the
00:23 10 powder starts to burn, the gases build up inside that vessel,
11 whether it be a pipe, piece of PVC, plastic bottle. Whatever
12 the vessel is. The gases build up in that vessel until that
13 vessel cannot contain those gases anymore, and then it releases
14 and causes an explosion.

15 Q. Now, after these items were rendered safe and the
16 gunpowder is poured out of them, or the explosive is poured out
17 of them, what happened to the items?

18 A. I believe members of the FBI evidence team secured the
19 items.

00:23 20 Q. And were they sent down to Quantico, to the FBI lab?

21 A. Yes, sir.

22 MR. MELLIN: If I could please have Exhibit 776.

23 THE COURT: Is this in evidence?

24 MR. MELLIN: I'm not sure, your Honor.

25 THE CLERK: Yes, it is.

1 THE COURT: The clerk tells me it is.

2 MR. MELLIN: If I could ask to publish it, then.

3 BY MR. MELLIN:

4 Q. Trooper, do you see the item that's in the middle of this
5 photograph, Exhibit 776?

6 A. Yes, sir.

7 Q. What is that?

8 A. That is one of the suspected devices on Laurel Street.

9 Q. Okay. Now, you were talking about how one of these items
00:24 10 would be detonated. Do you see there's a green thread on the
11 device as you look at it?

12 A. Yes, sir.

13 Q. What exactly is that?

14 A. That would be a piece of hobby fuse.

15 Q. And how would you go about detonating something like this
16 with that hobby fuse?

17 A. The hobby fuse would be the first item in the explosive
18 train. The hobby fuse would have to be lit by an open flame.

19 MR. MELLIN: And if I could pull up Exhibit 834,
00:25 20 please, which is not in evidence.

21 Q. Trooper, do you see Exhibit 834?

22 A. Yes, sir.

23 Q. Is that a photograph of that device that we just saw in
24 the other photograph?

25 A. Yes, it is. It's after we rendered it safe and removed

1 one of the end caps.

2 Q. And this actually has the Q number assigned by the FBI
3 lab. Is that right?

4 A. Yes, sir.

5 MR. MELLIN: Your Honor, I would move into evidence
6 Exhibit 834.

7 MR. WATKINS: No objection.

8 MR. MELLIN: And ask to publish it.

9 THE COURT: All right.

00:25 10 (Government Exhibit No. 834 received into evidence.)

11 BY MR. MELLIN:

12 Q. And if you can describe what we see in this photograph?

13 A. That is one of the suspected devices after we rendered it
14 safe and removed the powder to separate it from the pipe, and
15 then it was collected by the evidence team.

16 Q. So at this point in time these items are rendered safe
17 because there's no longer the powder in them, correct?

18 A. There's not the powder in them and there's no -- with the
19 end cap removed, there's no potential to have it burn and the
00:26 20 gas build up within the vessel.

21 MR. MELLIN: Your Honor, if I may approach the
22 witness --

23 THE COURT: Okay.

24 MR. MELLIN: -- with Exhibit 964.

25 BY MR. MELLIN:

1 Q. Trooper, could you look in that bag and see if you
2 recognize what's in that bag?

3 A. Yes, sir.

4 Q. Do you recognize what is 964?

5 A. Yes, sir. That was the item in the picture and also the
6 item that was recovered from Laurel Street.

7 MR. MELLIN: Your Honor, I would move into evidence
8 Exhibit 964.

9 MR. WATKINS: No objection.

00:27 10 THE COURT: Okay.

11 (Government Exhibit No. 964 received into evidence.)

12 BY MR. MELLIN:

13 Q. Trooper, as you look at what is inside that bag and what
14 is 964, can you describe what the items are?

15 A. It's basically an elbow. I'd say it's approximately two
16 inches in diameter, and it still has one end cap on it and one
17 end cap removed. There is also a hole in the elbow and a piece
18 of hobby fuse. And in the interior of the pipe it is lined
19 with some sort of epoxy and then lined with BBs.

00:28 20 Q. Now, when you say there's a hole in it for the hobby fuse,
21 what are you talking about?

22 A. That's when I explained the hobby fuse with the explosive
23 train, the hobby fuse would burn down into the pipe and then
24 ignite the powders, and that in turn would cause the powder to
25 burn to build up the gases within the vessel.

1 Q. You mentioned it's an elbow. And just for the record,
2 we're not talking about a human elbow, correct? What are we
3 talking about?

4 A. It's not a straight piece of pipe. It's a 90-degree pipe.

5 Q. And as you hold that piece of pipe, how heavy is it?

6 A. It's really heavy.

7 Q. Is there a reason that you're aware of why someone would
8 choose to use an elbow as an explosive device?

9 A. We -- typically we don't see these types of pipe --

00:29 10 MR. WATKINS: Objection, your Honor. Objection.

11 THE COURT: Overruled.

12 THE WITNESS: We don't see these type of pipe bombs;
13 they usually are a straight length. In my field, rather than
14 calling this a pipe bomb, I almost called it an improvised
15 grenade. Just from my experience, the reason why it would be
16 elbowed, so --

17 MR. WATKINS: Objection, your Honor.

18 MR. MELLIN: Your Honor, he said based on his
19 experience.

00:29 20 THE COURT: Go ahead.

21 THE WITNESS: That when it's tossed it will not roll
22 away; it will land and stop in its spot where it's intended to
23 be.

24 BY MR. MELLIN:

25 Q. Now, you mentioned there were some items inside that

1 device even today. Is that right?

2 A. Yes, sir.

3 Q. And what is it you see inside there?

4 A. It looks like it's lined with BBs.

5 Q. The explosive powder that was inside of it, can you
6 describe the quantity? How much was inside of it?

7 A. It was full.

8 Q. And would you -- based on your training and experience, is
9 that a lot of explosive device?

00:30 10 A. Yes, sir.

11 MR. MELLIN: Your Honor, if I may pick up the item and
12 display it for the jury, please?

13 THE COURT: Yes, you may.

14 (Exhibit No. 834 displayed to the jury.)

15 BY MR. MELLIN:

16 Q. Trooper, as you look inside Exhibit 834, the BBs are
17 attached to the wall. Is that right?

18 A. Yes, sir.

19 Q. Do you know how that happens?

00:31 20 A. Some sort of epoxy or glue.

21 Q. And as I hold this up, there's also the hole that you were
22 discussing. Is that right?

23 A. Yes, sir.

24 Q. And that's where the fuse was?

25 A. Yes, sir.

1 Q. I'll hand this back to you.

2 A. Thank you.

3 MR. MELLIN: If I could please have Exhibit 835
4 brought up just for the witness.

5 Q. Do you see Exhibit 835 on your screen?

6 A. Yes, sir.

7 Q. Do you recognize what that is?

8 A. That is the length of hobby fuse that was secreted in the
9 pipe.

00:32 10 MR. MELLIN: Your Honor, I would move into evidence
11 Exhibit 835 and ask to publish.

12 MR. WATKINS: No objection.

13 THE COURT: Okay.

14 (Government Exhibit No. 835 received into evidence.)

15 BY MR. MELLIN:

16 Q. As you look at Exhibit 835, there's three pieces in that
17 photograph. Is that right?

18 A. Yes, sir.

19 Q. And what exactly is that and how does it work?

00:32 20 A. That is the hobby fuse that burns, like I said, it's the
21 beginning of the explosive train, to ignite the device.

22 Q. And that's the fuse that was inside the hole that was in
23 Exhibit 964?

24 A. It was in the interior and the exterior.

25 Q. If you wouldn't mind kind of setting those items aside.

1 MR. MELLIN: And if I could have Exhibit 840 brought
2 up for the witness.

3 Q. And finally, if you could just -- what is Exhibit 840?

4 A. This is the same device, the 90-degree elbow pipe after
5 it's been rendered safe. You could see the pipe lined with the
6 BBs and the hobby fuse in the interior.

7 MR. MELLIN: Your Honor, I would move into evidence
8 Exhibit 840 and ask to publish.

9 MR. WATKINS: No objection.

00:33 10 THE COURT: Okay.

11 (Government Exhibit No. 840 received into evidence.)

12 BY MR. MELLIN:

13 Q. And again, Trooper, this is the inside of the item that we
14 were just talking about. Is that right?

15 A. That's correct.

16 Q. And you can see the BBs inside there?

17 A. Yes, sir.

18 Q. All right. Thank you.

19 You mentioned there was a second pipe. If I could have
00:34 20 you look at the Exhibit 842. Actually, that's a close-up of
21 the one we just saw. Is that right?

22 A. I don't believe it is. I believe that's the straight
23 device.

24 Q. Actually, I stand corrected. You're right. All right.
25 And can you describe what you see there?

1 A. That's basically just another pipe length. It's straight
2 after it's been rendered safe and the powder's been removed.
3 And you could see the hobby fuse on the exterior and the
4 interior of the pipe. And this pipe is also lined with BBs.

5 MR. MELLIN: Your Honor, I would move into evidence
6 Exhibit 842 and ask to publish.

7 MR. WATKINS: No objection.

8 THE COURT: Okay.

9 (Government Exhibit No. 842 received into evidence.)

00:34 10 BY MR. MELLIN:

11 Q. Okay. Now, looking at this photograph, 842, this, again,
12 was the second item that was rendered safe. Is that right?

13 A. Correct.

14 Q. How much powder was in this item?

15 A. It was full.

16 Q. And is that a substantial amount of powder for something
17 this size?

18 A. Yes.

19 Q. And you mentioned the BBs there, again, are lining the
00:35 20 inside of that container. Is that right?

21 A. Yes, sir.

22 MR. MELLIN: If I may approach with Exhibit 967, your
23 Honor.

24 THE COURT: All right.

25 BY MR. MELLIN:

1 Q. Do you recognize the items in Exhibit 967?

2 A. Yes, sir.

3 Q. And what are they?

4 A. This was another suspected device that was removed from
5 Laurel Street and taken out to the Boston Police Department's
6 gun range on Moon Island.

7 Q. Is that the item that we just saw that was Exhibit 842,
8 the photograph?

9 A. Yes, sir.

00:36 10 MR. MELLIN: Your Honor, at this time I would move
11 into evidence Exhibit 967.

12 MR. WATKINS: No objection.

13 THE COURT: Okay.

14 (Government Exhibit No. 967 received into evidence.)

15 BY MR. MELLIN:

16 Q. As you look at Exhibit 967, what do you notice about it?

17 A. It's particularly the same device except it's a straight
18 length of pipe rather than a 90-degree elbow bend.

19 Q. And has the fuse been pulled out of 967?

00:36 20 A. It has.

21 Q. Okay. As we saw in 842, the photograph, the fuse was in
22 at the time?

23 A. In at the time of recovery or --

24 Q. Yes, in at the time of recovery.

25 A. Yes, sir.

1 MR. MELLIN: Your Honor, if I may approach again, grab
2 the item and display it.

3 THE COURT: Yes.

4 (Exhibit No. 967 displayed to the jury.)

5 BY MR. MELLIN:

6 Q. Trooper, do you recall the -- with the hole that is in
7 Exhibit 967 for the fuse, do you remember if that was taped in
8 or if that was just pushed in?

9 A. I don't recall.

00:38 10 Q. Do you recall seeing the electrical tape that was on the
11 other item?

12 A. I do.

13 Q. Okay. And was that electrical tape the black electrical
14 tape used to hold that fuse in place?

15 A. Yes, sir.

16 Q. Finally, if I can have you look at Exhibit 843. Do you
17 recognize Exhibit 843?

18 A. Yes, sir.

19 Q. What is that?

00:38 20 A. That's the length of the hobby fuse for this item.

21 Q. And is that a fair and accurate picture of the hobby fuse
22 that was in that item?

23 A. Yes, sir.

24 MR. MELLIN: Move into evidence Exhibit 843, your
25 Honor.

1 MR. WATKINS: No objection.

2 THE COURT: Okay.

3 (Government Exhibit No. 843 received into evidence.)

4 MR. MELLIN: And if I may approach with Exhibit 968,
5 your Honor.

6 BY MR. MELLIN:

7 Q. Do you recognize Exhibit 968?

8 A. Yes, this is the length of the hobby fuse in the photo.

9 Q. So that's the hobby fuse that's shown in Exhibit 843?

00:39 10 A. Correct.

11 Q. What do you notice about the hobby fuse that you see in
12 843, or the actual item, 968 in front of you?

13 A. It appears that, looking at this photo, the right side of
14 the hobby fuse, it appears that it was attempted to be ignited.
15 There's a little scorching burnt mark on the end of the hobby
16 fuse.

17 Q. That indicates that it was lit, but it did not burn down?

18 A. Correct.

19 Q. Now, you mentioned on the scene the Honda was left behind.

00:40 20 Is that right?

21 A. That is right.

22 Q. And at some point did you search the Honda?

23 A. I did.

24 Q. How did you go about doing that?

25 A. We initially sent the robots downrange to get a visual on

1 the Honda, look inside of it with the cameras to see if there
2 were any other potentially dangerous items in the area. The
3 robot had difficulty opening the trunk, so I put on a bomb
4 suit -- one of our bomb suits, protective gear.

5 Q. And exactly what is that?

6 A. It's basically made of Nomex and Kevlar to protect us
7 from, you know, flammable -- or flames, and also explosives.
8 It's a head-to-toe bomb squad, as many people have seen, the
9 big green suit that we walk around in.

00:40 10 Q. Why did you put that on?

11 A. Because we -- the vehicle could not be totally cleared by
12 the robot. So basically I put on the bomb suit, I went
13 downrange to the vehicle. I took a rigging line with me, which
14 is basically just rope with a clamp, and I -- rather than just
15 go and open up the trunk, I hooked it onto the trunk latch on
16 the driver's side, I believe it was down by the floor, hooked
17 on the rope and the latch, I backed up to a safe distance and
18 then popped the trunk open, pulled the rope, and was able to
19 pop the trunk remotely.

00:41 20 Q. Did you find any other explosive devices in the car?

21 A. After we popped the trunk I went down and did another
22 visual inspection of the vehicle, and I did not observe any
23 other explosive items.

24 Q. At some point did you find a computer bag in the car?

25 A. I did, sir.

1 Q. And was that computer bag removed from inside the car?

2 A. Yes, sir.

3 Q. Okay. If I could have you look at Exhibit 866, which I
4 believe is in evidence.

5 MR. MELLIN: If it is not, then if I could just show
6 it to the --

7 THE CLERK: No, it is not.

8 MR. MELLIN: All right. I take that back.

9 BY MR. MELLIN:

00:42 10 Q. Trooper, do you see Exhibit 866?

11 A. Yes, sir.

12 Q. And do you recognize what that is?

13 A. That is the suspect vehicle, the Honda, on Laurel Street.

14 Q. And do you see the computer bag in that photo?

15 A. I do.

16 Q. Is that a fair and accurate photo of the scene on April
17 the 20th of 2013?

18 A. Yes, sir.

19 Q. Okay.

00:42 20 MR. MELLIN: Your Honor, I would move into evidence
21 and ask to publish Exhibit 866.

22 MR. WATKINS: No objection.

23 THE COURT: Okay.

24 (Government Exhibit No. 866 received into evidence.)

25 BY MR. MELLIN:

1 Q. As we look at Exhibit 866, that's a daytime photo,
2 correct?

3 A. Correct.

4 Q. So that's the following day or --

5 A. Yes, sir.

6 Q. Is it the 19th or the 20th? I'm sorry. Was it the
7 daytime of the 19th?

8 A. I believe that was the daytime of the 19th, yes.

9 Q. Okay. Now, as we look at the photograph, in the middle of
00:42 10 the photograph is the green Honda. Is that right?

11 A. Yes, sir.

12 Q. Where is the computer bag we are talking about?

13 A. It is the bag on the street, I would say located closest
14 to the tree, in between the tree and vehicle.

15 Q. If you could do me a favor and circle that, please?

16 A. (Witness complies.)

17 Q. And you just described the item, but it's the bag in the
18 middle of the photograph by the tree?

19 A. Correct, sir.

00:43 20 Q. All right. Did you also see some bags to the bottom left
21 of that photograph?

22 A. Yes, sir.

23 Q. And are those backpacks that were left on the scene?

24 A. I believe so, yes.

25 Q. The computer bag itself, did you ever open that bag at

1 that time?

2 A. I did not.

3 Q. What was done to have some sense as to what was in the
4 bag, if anything?

5 A. I removed the item, put it over closest to where one of
6 the robots were so the robot could try to secure it. At that
7 time I didn't want to open it. And we wanted to x-ray it to
8 see what the bag contained, any dangerous items.

9 Q. Was it x-rayed at that time?

00:43 10 A. It was x-rayed, yes.

11 Q. Are you aware of it containing any dangerous items?

12 A. Not that I was aware of, no.

13 Q. And at that point then, you leave the bag alone?

14 A. Yes.

15 Q. At some point did you go to the scene where the Mercedes
16 was left?

17 A. Yes, sir.

18 Q. When did you do that?

19 A. Actually, at the time there were -- the other bomb techs
00:44 20 were going downrange to x-ray this bag, I received a call.

21 Someone advised me that one of the special agent bomb techs
22 from the FBI was up the street at Spruce and Lincoln Street,
23 that he located a suspected explosive device in the vehicle and
24 he was requesting assistance.

25 Q. The vehicle you're now talking about was in the Mercedes?

1 A. Correct, sir.

2 Q. So the item was in the Mercedes? I'm sorry.

3 A. Yes, sir.

4 Q. Okay. If I could have you look at what is already in
5 evidence, Exhibit 795.

6 Trooper, do you recognize Exhibit 795?

7 A. Yes, this is another one of the suspected vehicles, the
8 Mercedes.

9 Q. Is this a photograph of the Mercedes?

00:45 10 A. Correct, sir.

11 Q. And is that where it was left on the street?

12 A. Yes, sir. When I arrived, that's where it was.

13 Q. And then if I could also have you look at 796 which is
14 also already in evidence.

15 Do you recognize that photo?

16 A. This is another photograph of the Mercedes.

17 Q. Okay. The -- in this photograph the front driver's door
18 and the front passenger door are both open. Is that right?

19 A. Yes, sir.

00:45 20 Q. And the back door behind the driver is open as well. Is
21 that right?

22 A. Correct, sir.

23 Q. Okay. You mentioned that there was something found in
24 this car. What was found in this car?

25 A. It was basically a Tupperware box that was -- had

1 fuses -- had a fuse coming out of it.

2 Q. Was there a concern at that time about that item?

3 A. Yes, that that was another improvised explosive device.

4 Q. And the item itself was actually found where in the car?

5 A. It is found on the floorboard of the rear seat behind the
6 driver's seat.

7 Q. So near the door -- as we look at 796, near the door on
8 the left that's open?

9 A. Yes.

00:46 10 Q. All right. If I could have you look at Exhibit 852, which
11 is not in evidence yet, I don't believe.

12 Do you recognize Exhibit 852?

13 A. Yes, sir.

14 Q. What is that?

15 A. That was the device that was removed from the Mercedes,
16 and then at this point it was considered rendered safe.

17 Q. Is that a fair and accurate photograph?

18 A. Yes, sir.

19 MR. MELLIN: Move into evidence Exhibit 852, your
00:46 20 Honor, and ask to publish it.

21 MR. WATKINS: No objection.

22 THE COURT: Okay.

23 (Government Exhibit No. 852 received into evidence.)

24 BY MR. MELLIN:

25 Q. Sir, if we look at Exhibit 852, the item itself is now not

1 in the Mercedes but behind a Jeep. Is that right?

2 A. Correct.

3 Q. Is that how it was when you came on the scene?

4 A. No, sir.

5 Q. Okay. So how was that item removed from the Mercedes?

6 A. We wanted to remove it from the Mercedes to examine it
7 further. We called another robot to the scene. We attempted
8 to remove the item with the robot without success. It was in
9 an awkward position, it was a little heavy, so we were unable
00:47 10 to get it out with the robot.

11 So it's the same as I did with the trunk release. I had a
12 rigging line, which is basically a rope with a clamp on it,
13 went to the vehicle, put the clamp on the Tupperware container
14 and then brought the rope back, you know, over a tree limb,
15 over to -- and then I went behind a house -- took cover behind
16 a house and pulled on the rope. And basically, the Tupperware
17 container came out of the vehicle and landed in the street.

18 Q. And did it land essentially where it is here in this
19 photograph?

00:48 20 A. Yes, sir.

21 Q. At that point, what did you do?

22 A. At that point we did x-ray the item. We wanted to see
23 what was in the item before we tried out our options to render
24 it safe.

25 Q. When it came out of the vehicle, did the lid pop off of

1 it?

2 A. No, the lid was still on top of it. It was still intact.

3 Q. So how did you go about rendering it safe?

4 A. We talked about -- the same thing: Shoot a water cannon
5 on it, destructing it. You could put explosives on it to
6 countercharge it but, you know, we are in a residential
7 neighborhood. We had other vehicles around. We were confident
8 with this being Tupperware, and plastic on plastic, whereas
9 it's not metal on metal which can cause friction to ignite
00:48 10 powder -- it doesn't have to be a hobby fuse with flame.
11 Friction could ignite powders also.

12 So with this being plastic, and after x-raying it and
13 determining that it looked like just some more hobby fuse and
14 powder, it didn't look like the lid was booby-trapped in any
15 way, we had another bomb tech put on the bomb suit, went
16 downrange and just took the lid off the cover of it -- took the
17 cover off the container.

18 Q. Got it.

19 MR. MELLIN: If I could have the trooper look at 853,
00:49 20 please.

21 Q. What is Exhibit 853?

22 A. That is the device after removed from the Mercedes and
23 after we considered it, you know, rendered-safe.

24 MR. MELLIN: Your Honor, I would ask to move into
25 evidence Exhibit 853 and ask to publish it.

1 MR. WATKINS: No objection.

2 THE COURT: Okay.

3 (Government Exhibit No. 853 received into evidence.)

4 BY MR. MELLIN:

5 Q. Trooper, you mentioned that the robot had trouble picking
6 up this item because it was heavy?

7 A. Yeah, it was at a bad angle on account of the street, and
8 the robot that we were utilizing was a smaller robot. And it
9 just couldn't lift it. It was rather heavy for being just a
00:50 10 piece of plastic.

11 Q. As you look at Exhibit 853, can you describe the two items
12 that you see in 853?

13 A. Basically you have the container, the bowl of the
14 Tupperware, which contained powder, and then on top of it was
15 multiple lengths of hobby fuse. To the left was the lid for
16 the Tupperware container which had --

17 Q. If you could just circle the lid just so we're all clear.

18 A. (Witness complies.)

19 Q. And in the photograph you circled the white item that has
00:50 20 a fuse in it?

21 A. Yes, sir.

22 Q. All right. You mentioned it's heavy. Plastic Tupperware
23 is not that heavy, is it, the container itself?

24 A. No.

25 Q. The fuses themselves are not very heavy, are they?

1 A. No, sir.

2 Q. What was providing the weight?

3 A. Just the amount of powder that was in it.

4 Q. How much powder was in it?

5 A. I don't particularly know how much was in it. Two to
6 three pounds. I couldn't give you an exact.

7 Q. And just so we're all clear, the item that was actually in
8 the car had the top on it. Is that right?

9 A. Correct.

00:51 10 Q. So the fuse was going through the top?

11 A. Yeah, there was a hole in the middle of the lid, and
12 actually three lengths of hobby fuse were taped together, and
13 it was protruding into the container.

14 Q. If I could have you please look at Exhibit 855. Do you
15 recognize Exhibit 855?

16 A. Yes, sir.

17 Q. What is that?

18 A. I believe that's the Tupperware container after all the
19 items had been removed. Obviously, a lab picture.

00:51 20 Q. Is that a fair and accurate photo of the Tupperware
21 container?

22 A. Yes, sir.

23 MR. MELLIN: I'd move that into evidence, your Honor,
24 and ask to publish.

25 MR. WATKINS: No objection.

1 THE COURT: Okay.

2 (Government Exhibit No. 855 received into evidence.)

3 BY MR. MELLIN:

4 Q. Just so we're all clear, that's a photograph of the
5 container itself?

6 A. Yes, sir.

7 Q. Okay. And there's what appears to be remaining items in
8 that container to some extent. What would that be?

9 A. Just powder residue.

00:52 10 Q. And if I could have you please look at Exhibit 856. Do
11 you recognize Exhibit 856?

12 A. That is the lid for the Tupperware container.

13 Q. Is that a fair and accurate photograph of it?

14 A. It is, sir.

15 MR. MELLIN: Move into evidence Exhibit 856, your
16 Honor, and ask to publish it.

17 MR. WATKINS: No objection.

18 THE COURT: Okay.

19 (Government Exhibit No. 856 received into evidence.)

00:52 20 BY MR. MELLIN:

21 Q. Sir, do you see that photograph now in front of you?

22 A. Yes, sir.

23 Q. Can you just describe for the ladies and gentlemen of the
24 jury what we're looking at.

25 A. It's the bottom side of the lid to the Tupperware

1 container. It still has some powder residue to it, and it also
2 has the hobby fuse placed through a center hole of the lid.

3 Q. And you've referred repeatedly to hobby fuse. What is a
4 hobby fuse?

5 A. A hobby fuse is just, like I said, the beginning of an
6 explosive train. It's the first stage to ignite an item, to
7 ignite fireworks, you know, so it burns down and then hits the
8 explosive charge.

9 MR. MELLIN: Your Honor, if I may approach with two
00:53 10 other items?

11 THE COURT: You may.

12 BY MR. MELLIN:

13 Q. Sir, I just handed you two items. I think they're Exhibit
14 854 and Exhibit 1126. Do you recognize them?

15 A. Yes, sir.

16 Q. What are they?

17 A. The first item I have here is the Tupperware container
18 with the lid on it, and there's also the hobby fuse that was
19 also through the top lid of the container.

00:54 20 Q. Can you open that up and pull it out?

21 A. I could try.

22 Q. And as you look at that there, is that how that appeared
23 when it sat on the rear floorboard behind the driver's seat in
24 that SUV?

25 A. It appeared like this but it also had the hobby fuse

1 protruding from the top.

2 Q. All right. And the other bag, Exhibit 1126, what are all
3 the items in there?

4 A. I believe that is all the hobby fuse that was removed from
5 the container along with a powder sample.

6 MR. MELLIN: Your Honor, if I may approach and display
7 the Tupperware item to the jury.

8 THE COURT: All right.

9 MR. MELLIN: Thank you.

00:55 10 THE COURT: Actually, I think you have to -- it has to
11 be offered.

12 MR. MELLIN: I'm sorry, your Honor. I would move into
13 evidence --

14 MS. PELLEGRINI: 854.

15 MR. MELLIN: -- one item, 854, and also the fuses,
16 which are Exhibit 1126, I believe.

17 MR. WATKINS: No objection.

18 THE COURT: Okay.

19 (Government Exhibit Nos. 854 and 1126 received into
00:56 20 evidence.)

21 (Exhibit Nos. 854 and 1126 displayed to the jury.)

22 MR. MELLIN: Thank you, your Honor. Nothing further.

23 MR. WATKINS: Just a couple of questions.

24 CROSS-EXAMINATION

25 BY MR. WATKINS:

1 Q. Good morning.

2 A. Good morning, sir.

3 Q. So you initially arrived at the Laurel and Dexter area
4 while the bombs were going off?

5 A. I believe while one of the bombs went off, yes.

6 Q. And you were able to see that from where you were?

7 A. We didn't see it; we just saw smoke through the
8 streetlights.

9 Q. And you came up Cypress Street from Dexter Avenue,
00:57 10 correct?

11 A. No, we came from the opposite side. I believe we came
12 down from the Mount Auburn side and past Laurel, and then came
13 around the corner towards Dexter Street.

14 Q. But I think you mentioned Cypress, didn't you?

15 A. I was on Cypress, yes.

16 Q. Oh, you were on Cypress? Okay.

17 A. Yeah, I never made it to Laurel Street.

18 Q. I want to show you what's been marked -- admitted into
19 evidence as Exhibit 775. Do you recognize that map as that
00:57 20 area?

21 A. Yes, sir.

22 Q. And I'll point out a couple of things. That's Laurel
23 Street there?

24 A. Correct.

25 Q. That's Cypress Street there, right?

1 A. Correct.

2 Q. And so it was Cypress Street here that you came up or
3 Cypress Street up here?

4 A. Up top. Yes, sir, we came down that street.

5 Q. You could actually tap on the screen to show --

6 A. I believe we came in from this direction here.

7 Q. Okay. And when you came in from that direction, from
8 Mount Auburn on Cypress Street, you were trying to approach
9 Laurel, right?

00:58 10 A. Yeah, we were trying to approach Laurel. I just didn't
11 know the exact location. Until looking at a map later, I
12 didn't even know what street we were on.

13 Q. And so -- but now you know it was Cypress at that
14 direction?

15 A. Correct, sir. Yup.

16 Q. And coming in from that direction, you were blocked from
17 getting down to Laurel by other marked cruisers?

18 A. I believe there were vehicles there or we just bypassed
19 the street. You know, we just kept going.

00:58 20 Q. Oh, I see. You bypassed Laurel Street?

21 A. Yeah, we bypassed Laurel Street. I never --

22 Q. So you went actually down all the way here --

23 A. I went all the way down -- the map doesn't show it -- and
24 around. That street bends to the right and goes back to
25 Dexter.

1 Q. Right. And there were police vehicles all over the scene
2 at that point, right?

3 A. Yes, there were.

4 Q. And they were coming in from all different directions the
5 same way you were, down Cypress from other directions?

6 A. I don't know who was around us. I know -- because we were
7 in a truck, marked vehicles passed us and we passed other
8 vehicles.

9 Q. And, again, you were seeing vehicles here at that area,
00:59 10 right?

11 A. I believe there were some vehicles there, yeah.

12 Q. And after you dowsed the package up on Mount Auburn, you
13 came back up to Laurel Street?

14 A. Yeah, we came back down Dexter Street to Laurel Street.

15 Q. And Dexter Avenue, actually.

16 A. Okay. Sorry about that. Dexter Avenue.

17 Q. No worries.

18 And this is where the containment vehicle eventually was
19 parked --

01:00 20 A. Yes, sir.

21 Q. -- and the robots were sent from there?

22 A. Correct, sir.

23 MR. WATKINS: That's all I have, your Honor. Thank
24 you.

25 THE COURT: Anything else?

1 MR. MELLIN: No, your Honor. Thank you.

2 THE COURT: All right. Thank you, sir. You may step
3 down.

4 THE WITNESS: Thank you, your Honor.

5 (The witness is excused.)

6 MS. PELLEGRINI: The United States calls Trooper
7 Matthew Hess.

8 MATTHEW HESS, duly sworn

9 THE CLERK: State your name, spell your last name for
01:02 10 the record, keep your voice up and speak into the mic so
11 everyone can hear you.

12 THE WITNESS: My name is Matthew Hess. My last name
13 is spelled H-E-S-S. I'm a trooper with the Massachusetts State
14 Police.

15 DIRECT EXAMINATION

16 BY MS. PELLEGRINI:

17 Q. Good morning, Trooper Hess.

18 A. Good morning.

19 Q. Can you tell the ladies and gentlemen of the jury how long
01:02 20 you've been employed by the Massachusetts State Police?

21 A. Thirteen years.

22 Q. And what is your current assignment?

23 A. My current assignment is with Crime Scene Services in
24 Worcester.

25 Q. What does that mean?

1 A. Crime Scene Services, what we do is we respond to crime
2 scenes, unattended deaths. And what we do is we take
3 photographs, videotape, and also processes fingerprints and
4 collect other evidence that are on the scenes.

5 Q. And how long have you been doing that assignment?

6 A. Approximately, now, eight years.

7 Q. All right. Now, you said you're assigned to Worcester?

8 A. Correct.

9 Q. Do you, though, have occasion to be assigned to other
01:02 10 locations?

11 A. Yes, as needed.

12 Q. As needed? And do you work with anyone else?

13 A. We work with the district attorneys' offices and, as
14 needed, different district attorneys' offices when they need
15 crime scenes to be processed.

16 Q. All right. And in that capacity, did you have occasion on
17 or about April the 21st of 2013 to respond to a location for
18 evidence collection?

19 A. Yes.

01:03 20 Q. And can you tell the jury about that.

21 A. I responded to Watertown PD, the headquarters there in
22 Watertown. There was located a black Mercedes in the garage.
23 I was helping and assisting ballistics process the vehicle for
24 ballistic evidence.

25 Q. And where exactly was the Mercedes located when you

1 arrived at that location?

2 A. It was in the garage at Watertown PD.

3 Q. All right.

4 MS. PELLEGRINI: May I have Exhibit 795 up, which is
5 already in evidence.

6 Q. Trooper Hess, do you recognize the vehicle in this photo?

7 A. Yes.

8 Q. Particularly the one on the left side, the Mercedes?

9 A. Yes.

01:04 10 Q. All right. This is not the location at which you examined
11 it, correct?

12 A. Correct.

13 Q. But is this, in fact, the vehicle that you went to look
14 at?

15 A. That is the vehicle.

16 Q. All right. Thank you.

17 And when you got --

18 MS. PELLEGRINI: You can take that down.

19 Q. -- to the location at Watertown PD in the garage, what did
01:04 20 you do?

21 A. Ballistics was there first and they told me what they were
22 going to do. Then I received a phone call from Middlesex. A
23 few troopers, they were asking me to look for a specific piece
24 of evidence.

25 Q. What were you asked to look for?

1 A. I was asked to look for a CD. But what I first did was
2 just photograph the vehicle as it was in place. And then I
3 worked my way, taking different sides of the vehicle,
4 photographs. And then the vehicle did not have power to it, so
5 we had to call a tow truck to get power to the vehicle, to put
6 a battery to it.

7 Q. All right. And once that happened, once the battery was
8 attached, what happened?

9 A. I turned on the radio and pushed the button to get the CD
01:05 10 out.

11 Q. And so you extracted the CD at that time?

12 A. What I first did when the CD was extracted, I took
13 photographs of it in place, and then took the photo of the CD
14 as it was in the vehicle and then placed it in the bag.

15 Q. Okay.

16 MS. PELLEGRINI: So if I may approach, your Honor?

17 THE COURT: All right.

18 BY MS. PELLEGRINI:

19 Q. Trooper Hess, I'm going to show you what's been marked for
01:05 20 identification as Government's Exhibit 863, and ask you to look
21 at that item and ask you if you recognize that.

22 A. Yes, that's the bag.

23 Q. All right. That's the bag into which you placed the CD?

24 A. Yes.

25 Q. How do you recognize it as such?

1 A. I recognize it. It's my handwriting on the bag and -- all
2 my writing on the bag from the vehicle.

3 Q. All right. And have you had occasion prior to coming into
4 court today to actually open the bag and review the article
5 therein?

6 A. Yes, I did.

7 Q. And is that, in fact, the same CD that you retrieved from
8 the Mercedes on April the 21st?

9 A. It is.

01:06 10 Q. Could you remove it from the bag and show it to the jury,
11 please.

12 A. (Witness complies.)

13 Q. Thank you, Trooper Hess.

14 Trooper Hess, did you also have occasion in looking at the
15 vehicle to make any observations particularly of the bumper of
16 the vehicle, if you recall?

17 A. The bumper?

18 Q. Yes.

19 A. I took photos of the vehicle, just saw the vehicle as it
01:06 20 was, and that -- I know that the bumper was damaged. I didn't
21 make any notes of it.

22 MS. PELLEGRINI: Let me have just for the witness,
23 please, your Honor, Exhibit 782.

24 Q. Trooper Hess, do you recognize the image before you?

25 A. Yes.

1 Q. And is that, in fact, the bumper of the Mercedes?

2 A. It is.

3 Q. And is that, in fact, in the same condition as when you
4 observed it in the garage?

5 A. Yes.

6 Q. All right. And particularly did you make any observations
7 about damage or any other items connected to or on the bumper,
8 if you recall?

9 A. I just recall that we were doing ballistic evidence. I
01:07 10 don't recall seeing anything of significance on the bumper,
11 just taking photographs of it in place.

12 Q. All right. But this does fairly and accurately represent
13 the bumper as you saw it?

14 A. Yes, that is fair and accurate.

15 MS. PELLEGRINI: Your Honor, the government would move
16 this and ask it be published at this time.

17 MR. BRUCK: No objection.

18 THE COURT: Okay.

19 (Government Exhibit No. 782 received into evidence.)

01:07 20 BY MS. PELLEGRINI:

21 Q. Trooper Hess, I am going to draw on the screen --
22 hopefully I will draw on the screen -- a circle. Do you recall
23 making observations of this area on the bumper?

24 A. I remember seeing that it was damaged, yes.

25 Q. Do you recall anything else? Any discoloration on the

1 bumper at all?

2 A. I don't remember.

3 Q. All right. Thank you.

4 MS. PELLEGRINI: That can go down.

5 May I have a moment, your Honor?

6 (Counsel confer off the record.)

7 MS. PELLEGRINI: Thank you. No further questions for
8 Trooper Hess.

9 MS. CLARKE: Just one moment.

01:08 10 (Pause.)

11 MS. PELLEGRINI: I'm sorry, your Honor. If I did not
12 offer before the trooper leaves 863, I would offer it now.

13 THE COURT: I'm sorry. The CD?

14 MS. PELLEGRINI: The CD.

15 MR. BRUCK: Subject to our motion.

16 THE COURT: Yes. It will be admitted.

17 (Government Exhibit No. 863 received into evidence.)

18 MR. WATKINS: May we have just a moment, your Honor?

19 (Counsel confer off the record.)

01:09 20 MR. WATKINS: May we have the camera? Thank you.

21 CROSS-EXAMINATION

22 BY MR. BRUCK:

23 Q. Good morning, Trooper Hess. I'm David Bruck. I'm one of
24 Mr. Tsarnaev's attorneys.

25 MR. BRUCK: If we could have for the witness, your

1 Honor, Exhibit 3039.

2 Q. Trooper Hess, is that one of the photographs that you took
3 that morning on the 21st?

4 A. Yes. Yes.

5 Q. And does that fairly and accurately represent the right
6 side of the Mercedes about which you were testifying a moment
7 ago?

8 A. Yes.

9 Q. All right. I'm going to show you a series of additional
01:10 10 photos and ask you whether all of them -- each of them fairly
11 and accurately represents the Mercedes as you saw it on the
12 21st of April, 2013.

13 MR. BRUCK: For the witness, 3040, please.

14 A. That's a fair and accurate representation.

15 Q. 3041?

16 A. Yes.

17 Q. 3042?

18 A. Yes.

19 Q. 3043?

01:11 20 A. Yes.

21 Q. 3044?

22 A. Yes.

23 MR. WATKINS: Hold on.

24 MR. BRUCK: I'm getting ahead of -- I'm sorry.

25 THE WITNESS: Yes.

1 BY MR. BRUCK:

2 Q. Let's see. That was 3043. And then 3044?

3 A. Yes.

4 Q. Skipping now to 3046?

5 A. Yes.

6 Q. Thank you. 3047?

7 A. Yes.

8 Q. 3048?

9 A. Yes.

01:12 10 Q. And 3049?

11 A. Yes.

12 Q. To summarize, these are all pictures that you took of the
13 Mercedes that day?

14 A. Correct.

15 Q. And they fairly and accurately represent how it appeared
16 at that time?

17 A. Yes.

18 MR. BRUCK: We offer.

19 MS. PELLEGRINI: Your Honor, the government objects
01:12 20 and we wish to be heard at sidebar.

21 THE COURT: Okay.

22 (Discussion at sidebar and out of the hearing of the
23 jury:)

24 MS. PELLEGRINI: Your Honor, to the extent that this
25 is outside of the scope and it becomes the defense's witness,

1 we've received no notice in advance of any of these photographs
2 being moved into evidence. And the second ground is the
3 relevance of any of what is shown in the photographs sought to
4 be admitted.

5 MR. BRUCK: Your Honor, the government has moved these
6 in to show the --

7 MS. PELLEGRINI: No, the defense.

8 MR. BRUCK: I'm sorry. No, the government has moved
9 in the photograph of the fender to show and to corroborate
01:13 10 their testimony about driving down the street and banging into
11 a police cruiser, and there has been testimony that -- that, in
12 turn, relates to the testimony about how the defendant
13 attempted to make his escape.

14 These are photographs, of course, showing the
15 trajectories of an enormous number of bullets which supports
16 the inference that the defendant would be ducking and not
17 likely to have at all times seen where he was going. And we
18 think that this is responsive to the evidence that was
19 introduced on direct from this witness having to do with the
01:14 20 way the defendant was driving down the street.

21 MS. PELLEGRINI: Your Honor, the way the defendant was
22 driving down the street was a factual matter and it's been
23 testified to and simply supported by the evidence. This --
24 asking the jury to draw an inference where there is no evidence
25 before the jury about what the defendant was doing while he was

1 driving far exceeds what has been asked of the witness.

2 THE COURT: The objection is overruled.

3 (In open court:)

4 THE COURT: They're admitted.

5 (Defense Exhibit Nos. 3040 through 3044 and 3046
6 through 3049 received into evidence.)

7 MR. BRUCK: Thank you, your Honor.

8 BY MR. BRUCK:

9 Q. Trooper, I would like to start with 3039.

01:15 10 A. Yes, that's a fair and accurate representation.

11 Q. Thank you. And what do the markings appear to be that are
12 highlighted with tape in these photographs?

13 A. I believe those to be bullet holes.

14 Q. Those are all bullet holes on the right side of the
15 vehicle?

16 A. Yes.

17 Q. All right. And turning to 3040, if you could tell us what
18 part of the car that appears to be.

19 A. That seems to be, I believe, one of the pillars on the
01:16 20 passenger side.

21 Q. On the passenger's side. And again, that shows bullet
22 holes?

23 A. I believe it does.

24 Q. What is depicted in 3041?

25 A. The white tape signifies bullet holes.

1 Q. And 3042?

2 A. Again, bullet holes.

3 Q. Can you see how many bullet holes there appear to be in
4 the windshield?

5 A. I'm not a ballisticsian, but there appears to be seven.

6 Q. Approximately seven?

7 A. Approximately.

8 Q. Including several that are on the driver's side?

9 A. Yes.

01:16 10 Q. 3043 is a close-up that you took of the driver's side of
11 the windshield, correct?

12 A. Correct.

13 Q. Showing that the windshield was penetrated by how many
14 bullet holes?

15 A. It appears to be six.

16 Q. And 3044, again, depicts numerous bullet holes on the
17 driver's side of the car?

18 A. Correct.

19 Q. Would you tell us what 3046 appears to show.

01:17 20 A. It appears to be a bullet through a headrest.

21 Q. And do you know from looking at this picture, or do you
22 recall, which headrest that is in the car?

23 A. I believe that's the center of the rear seat.

24 Q. In the rear seat? Okay.

25 Drawing your attention now to 3047.

1 A. That's the driver's side headrest.

2 Q. That is how many bullet holes apparently passing through,
3 or have passed through -- have hit the driver's side headrest?

4 A. I believe that's one. Again, I'm not a ballistics expert. I'm
5 not an expert on projectile.

6 Q. Okay. And again 3048. More bullet holes in --

7 A. Yes, in the headrest.

8 Q. And that would be both the driver's side and passenger's
9 side headrest in the front?

01:18 10 A. Yes.

11 Q. And then the -- what is depicted by 3049?

12 A. That is the rear of the vehicle.

13 Q. And what does that indicate?

14 A. The window shattered.

15 MR. BRUCK: Thank you, Trooper Hess. That's all we
16 have.

17 MS. PELLEGRINI: No redirect, your Honor.

18 THE COURT: Thank you, Trooper.

19 (The witness is excused.)

01:19 20 MR. WEINREB: Your Honor, the next witness will be
21 rather lengthy so...

22 THE COURT: All right. Why don't we take the morning
23 recess at this point.

24 THE CLERK: All rise for the Court and the jury. The
25 Court will take the morning recess.

1 (The Court and jury exit the courtroom and there is a
2 recess in the proceedings at 11:02 a.m.)

3 THE CLERK: All rise for the Court and the jury.

4 (The Court and jury enter the courtroom at 11:29 a.m.)

5 THE CLERK: Be seated.

6 MR. WEINREB: The United States calls Patrick
7 Moynihan.

8 MR. WATKINS: Judge, just one issue before we get
9 started. It came to our attention that during our cross of
01:48 10 Trooper McCarthy there was an admitted exhibit that I was
11 showing to Trooper McCarthy. It was unclear whether that went
12 to the jury or not.

13 THE JURORS: It did not.

14 MR. WATKINS: It did not go to the jury.

15 THE COURT: That was probably my error.

16 MR. WATKINS: A wise error.

17 (Laughter.)

18 THE COURT: What do you want to do?

19 MR. WATKINS: The court reporter is prepared to read
01:49 20 back the testimony. I can play it through the exhibit as she
21 reads it.

22 MR. MELLIN: Your Honor, or I can step out and see if
23 Trooper McCarthy is outside and just have him re-called.

24 THE COURT: Well, is it a contained portion of the
25 transcript, I mean, relatively contained?

1 MR. WATKINS: It was pretty short.

2 THE COURT: Yeah, that might be the easiest way to do
3 it.

4 MR. WATKINS: Can I do that now, then?

5 THE COURT: I don't care. If he's right there and you
6 want to call him back, it may be better for him to explain it.

7 (Pause.)

8 THE COURT: All right. So we'll have the reporter
9 read back -- you'll tell her what portions?

01:50 10 MR. WATKINS: I think we've already discussed where it
11 is. She may have to go a little slow as I remind myself of
12 what I did.

13 THE COURT: Could you just give us the page and line
14 just as a beginning?

15 THE REPORTER: Yes, but it won't line up.

16 THE COURT: Right. Yes, I understand. Subject to
17 change.

18 THE REPORTER: Page 55, line 25.

19 "QUESTION: I want to show you what's been marked --
00:57 20 admitted into evidence as Exhibit 775. Do you recognize that
21 map as that area?

22 "ANSWER: Yes, sir.

23 "QUESTION: And I'll point out a couple of things.
24 That's Laurel Street there?

25 "ANSWER: Correct.

1 "QUESTION: That's Cypress Street there, right?

2 "ANSWER: Correct.

3 "QUESTION: And so it was Cypress Street here that you
4 came up or Cypress Street up here?

5 "ANSWER: Up top. Yes, sir, we came down that street.

6 "QUESTION: You could actually tap on the screen to
7 show --

8 "ANSWER: I believe we came in from this direction
9 here.

00:58 10 "QUESTION: Okay. And when you came in from that
11 direction, from Mount Auburn on Cypress Street, you were trying
12 to approach Laurel, right?

13 "ANSWER: Yeah, we were trying to approach Laurel. I
14 just didn't know the exact location. Until looking at a map
15 later, I didn't even know what street we were on.

16 "QUESTION: And so -- but now you know it was Cypress
17 at that direction?

18 "ANSWER: Correct, sir. Yup.

19 "QUESTION: And coming in from that direction, you
00:58 20 were blocked from getting down to Laurel by other marked
21 cruisers?

22 "ANSWER: I believe there were vehicles there or we
23 just bypassed the street. You know, we just kept going.

24 "QUESTION: Oh, I see. You bypassed Laurel Street?

25 "ANSWER: Yeah, we bypassed Laurel Street. I never --

1 "QUESTION: So you went actually down all the way
2 here --

3 "ANSWER: I went all the way down -- the map doesn't
4 show it -- and around. That street bends to the right and goes
5 back to Dexter.

6 "QUESTION: Right. And there were police vehicles all
7 over the scene at that point, right?

8 "ANSWER: Yes, there were.

9 "QUESTION: And they were coming in from all different
00:59 10 directions the same way you were, down Cypress from other
11 directions?

12 "ANSWER: I don't know who was around us. I know --
13 because we were in a truck, marked vehicles passed us and we
14 passed other vehicles.

15 "QUESTION: And, again, you were seeing vehicles here
16 at that area, right?

17 "ANSWER: I believe there were some vehicles there,
18 yeah.

19 "QUESTION: And after you dowsed the package up on
00:59 20 Mount Auburn, you came back up to Laurel Street?

21 "ANSWER: Yeah, we came back down Dexter Street to
22 Laurel Street.

23 "QUESTION: And Dexter Avenue, actually.

24 "ANSWER: Okay. Sorry about that. Dexter Avenue.

25 "QUESTION: No worries.

1 And this is where the containment vehicle eventually
2 was parked --

3 "ANSWER: Yes, sir.

4 "QUESTION: -- and the robots were sent from there?

5 "ANSWER: Correct, sir.

6 "MR. WATKINS: That's all I have, your Honor. Thank
7 you."

8 MR. WATKINS: And that is, indeed, all I have. Thank
9 you, your Honor.

01:54 10 THE COURT: All right.

11 MR. WEINREB: The United States calls Patrick
12 Moynihan.

13 PATRICK MOYNIHAN, duly sworn

14 THE CLERK: Have a seat. State your name, spell your
15 last name for the record, keep your voice up and speak into the
16 mic so everyone can hear you.

17 THE WITNESS: Patrick Moynihan. And it's
18 M-O-Y-N-I-H-A-N.

19 DIRECT EXAMINATION

01:55 20 BY MR. WEINREB:

21 Q. Good morning.

22 A. Good morning.

23 Q. Where do you work, sir?

24 A. I work for the state police.

25 Q. How long have you worked there?

1 A. Thirteen years.

2 Q. What are your current job responsibilities?

3 A. I work in the Crime Scene Services section.

4 Q. Where did you go to school and what degrees have you
5 earned?

6 A. I have a bachelor's of arts from LaSalle University in
7 Pennsylvania in criminal justice and sociology. I got that in
8 2000. I also have a master's in science I got in 2008 from
9 Westfield State University in criminal justice.

01:56 10 Q. What is the state police Crime Scene Services section?

11 A. The Crime Scene Services section, we were responsible for
12 responding to local state and federal crime scenes. Our
13 responsibilities include but are not limited to responding to
14 homicide scenes, to responding to B&Es, bank robberies, arson
15 fires, and reports of sexual assaults. When we get on-scene,
16 our job is to develop and to document latent fingerprints, to
17 develop and document footwear impressions as well as tire
18 impressions. We transport evidence and we write reports on all
19 of our findings.

01:56 20 Q. In addition to your undergraduate and graduate training in
21 computer justice, have you received any training in how to
22 handle evidence properly?

23 A. Yes.

24 Q. Have you received specialized training in how to document
25 crime scenes properly?

1 A. Yes.

2 Q. Have you received training in fingerprint identification
3 and comparison?

4 A. I have.

5 Q. Is that in-house training or external training?

6 A. Both. We do both.

7 Q. Please describe your internal training.

8 A. Our internal training starts in the classroom and then we
9 learn about the history of latent fingerprints, why it's
01:57 10 important, the actual orientation of a latent fingerprint. We
11 learn about ridgeology, which is the biology, the morphology of
12 actual friction ridge skin; we learn about digital photography:
13 how to take digital images; we learn chemical processing
14 safety; and entering fingerprints into the two databases that
15 we're responsible for entering in.

16 Q. Did you also learn how to compare one fingerprint to
17 another?

18 A. We do.

19 Q. What about your outside training?

01:58 20 A. Well, at this point I've -- I have about 700 hours of
21 external training. We started immediately. I started with an
22 FBI basic fingerprint class. In 2008 we are constantly going
23 to external training in regards to all the disciplines that
24 we're responsible for. It's part of our ASCLD/LAB
25 accreditation as well.

1 Q. So you just talked about your lab accreditation, but how
2 about you personally. After getting trained, did you have to
3 take some kind of examination to make sure you had learned
4 everything properly?

5 A. I did. I took -- once we complete the six-month process
6 in the beginning, the initial process, I took a proficiency --
7 it's a competency exam -- to make sure that I had enough
8 knowledge to actually do the work. And I did that in 2008.

9 Q. Did you pass the exam?

01:59 10 A. I did.

11 Q. After passing that exam, are there other exams you've had
12 to take since to make sure that your skills are still up to
13 snuff?

14 A. Yes. We take yearly proficiency exams in the disciplines
15 that I'm responsible for, and that basically tests us to make
16 sure that we're still efficient in what we do.

17 Q. Okay. So do fingerprint professionals like you have a
18 professional association that they belong to?

19 A. We do. The IAI is the largest and the oldest
01:59 20 organization. It's the International Association for
21 Identification, and I'm also a member of the NEDIAI?

22 Q. NEDIAI?

23 A. Yeah, it's the New England division of the IAI.

24 Q. In the course of your work, how many fingerprints have you
25 identified at crime scenes and documented and preserved for

1 possible later comparison?

2 A. Thousands.

3 Q. And in the course of your work, how many fingerprints and
4 palm prints have you actually analyzed by doing comparisons?

5 A. Thousands.

6 Q. Are there occasions where you have identified a person by
7 comparing the person's fingerprints to fingerprints found at a
8 crime scene?

9 A. I have.

02:00 10 Q. And are there occasions where you've excluded a person by
11 comparing that person's fingerprints to fingerprints found at a
12 crime scene?

13 A. I have.

14 Q. And have you done each one of them many times?

15 A. Yes.

16 Q. Approximately how many?

17 A. Thousands of times.

18 Q. As part of your job, are you expected to testify in court
19 about your examinations and the results of those examinations?

02:00 20 A. I am.

21 Q. How many times have you testified in court?

22 A. Approximately 25 times.

23 MR. WEINREB: Your Honor, at this time the government
24 would ask that Trooper Moynihan be qualified as a fingerprint
25 expert.

1 MS. CLARKE: No objection.

2 THE COURT: Okay.

3 BY MR. WEINREB:

4 Q. Which parts of the human body are capable of leaving
5 prints?

6 A. We have two areas on our body that have friction ridge
7 skin: It's the plantar and palmer areas of the body. The
8 palmer areas, the friction ridge starts right here at your
9 wrist bracelet and it continues all the way up over the top of
02:01 10 your fingertip to your fingernail. On our feet, they start at
11 our heel and it continues all the way along the bottom of our
12 foot all the way to the tops of our toes underneath the
13 fingernail.

14 Q. You used the phrase "friction ridge skin." And just in
15 layman's terms, does the skin on the hands and the feet have
16 tiny raised ridges?

17 A. They do.

18 Q. But the skin on the rest of your body doesn't?

19 A. No.

02:01 20 Q. Is that what makes them capable of leaving prints, those
21 ridges?

22 A. Yes.

23 Q. Can two individuals have the same fingerprints?

24 A. No.

25 Q. What about identical twins?

1 A. No.

2 Q. How can you be so sure?

3 A. Because I've actually done comparisons of identical twins.
4 And I just know that every human being has different friction
5 ridge skin. And the reason that happens is when -- your ridges
6 are formed before you're born, and the ridges form because of
7 the pressures that you experience inside your mother's womb.
8 So it's the pressures of when you're moving inside your mom
9 that actually help form the ridges that you have on these
02:02 10 areas.

11 Q. Okay. Would it be fair to say that millions of
12 fingerprint comparisons have been done by professionals over
13 time?

14 A. That's -- yes.

15 Q. And has anyone ever found two people with the exact same
16 fingerprints?

17 A. No.

18 Q. What is a latent print?

19 A. A latent fingerprint is a fingerprint that isn't seen;
02:02 20 it's hidden. It's a term that latent fingerprint examiners or
21 analysts use to describe a latent fingerprint -- to describe a
22 latent fingerprint at a crime scene or in the lab when we're
23 processing a piece of evidence in the lab. It's a fingerprint
24 from the areas that I've been talking about: it's from
25 your -- the palmar areas of your hand and the plantar areas of

1 your feet.

2 Q. So a latent fingerprint is a fingerprint you find at a
3 crime scene?

4 A. Yes.

5 Q. And when you first find it, just by looking at it, you
6 can't know whose it is?

7 A. No.

8 Q. What's a known print?

9 A. A known fingerprint is -- for instance, when we roll a
02:03 10 fingerprint for an attorney or a doctor, it's like an ink print
11 or a computer-made impression where you would see it on a
12 tempur card where you could see the actual known fingerprint
13 when it's taken.

14 Q. Let's break that down a little bit. You talked about
15 rolling?

16 A. Right.

17 Q. What does that refer to?

18 A. Well, rolling is what we describe as -- it's controlled.
19 It's a controlled roll. We're rolling it from the nail to
02:04 20 nail. So we're actually rolling it from fingernail on one side
21 to the fingernail on the other side. So we're trying to get as
22 much of the friction ridge detail when we're rolling the
23 fingerprint.

24 Q. All right. And so to help the jury visualize that,
25 correct me if I'm wrong, a person puts their finger on some

1 ink, like an ink pad?

2 A. Yes.

3 Q. And then they put their finger on a piece of paper or
4 cardboard, and then they roll it a little bit from right to
5 left?

6 A. That's correct.

7 Q. And that leaves an image of their print?

8 A. That's correct.

9 Q. And these days you don't even need to put your finger on
02:04 10 ink, you can just do it on a glass plate, like a Xerox machine,
11 and a computer can take a picture of it?

12 A. That's correct.

13 Q. Now, when a person leaves a fingerprint on something, what
14 exactly is it that he or she is leaving? And by that I mean,
15 what is a print made of?

16 A. Well, a latent fingerprint is made up of 90 percent water.
17 The other 1 percent of a latent fingerprint are made up of
18 hundreds of compounds, but primarily it's made up of amino
19 acids, lipids and salts. And these are things that we can use
02:05 20 as well.

21 Q. So the water that -- is that sweat?

22 A. Yes, it's perspiration. Yup.

23 Q. And the component of the fingerprint that you said were
24 lipids and other things, is that -- like a layman's term for
25 that oil?

1 A. Yes.

2 Q. All right. So the fingerprint consists of sweat and oil
3 from a person's finger or feet?

4 A. Yes.

5 Q. All right. So if you touch something and your fingers
6 aren't sweaty or oily, will you leave a fingerprint?

7 A. Well, you could, but there's a potential that you might
8 not.

9 Q. Let's say there's zero sweat or oil on your finger. Could
02:06 10 you leave a fingerprint?

11 A. No.

12 Q. Are some people naturally more prone to having sweat and
13 oil on their fingers than other people?

14 A. Yes.

15 Q. Do other things affect whether a person's fingers are
16 likely to have sweat or oil on them?

17 A. Yes.

18 Q. Other than just the way they're born?

19 A. Yes.

02:06 20 Q. What are those things?

21 A. Temperature. Typically in the wintertime, temperature
22 with cold -- temperatures -- your actual pores will constrict
23 and there's potential for not to leave a fingerprint there. In
24 extreme heat, some people actually excessively sweat so it
25 might actually obliterate, meaning that you might -- I mean,

1 there's so much sweat on there that you might actually not
2 leave a fingerprint. Actually, being nervous and having a lot
3 of tension can also cause you to sweat as well from these areas
4 that I'm talking about.

5 Q. All right. And what if you just like wiped your fingers
6 on your pants before you touched something. Could that be
7 enough to --

8 A. That could be possible.

9 Q. Are there other reasons a person who touches a surface
02:07 10 might not leave fingerprints?

11 A. Yup. There's the potential of washing the hands right
12 before you touch something, there could be -- was the person
13 wearing gloves? There's was there a lot of dust or dirt on the
14 actual surface that the person touched before leaving -- or
15 actually trying to grip or something like that?

16 Q. And let's say a person touched something like a component
17 of a bomb or the outside of a bomb and left a fingerprint but
18 then the bomb exploded. Is there anything about that process
19 that could destroy the fingerprints?

02:07 20 A. Absolutely.

21 Q. What would that be?

22 A. I mean, you have to understand that a fingerprint
23 is -- it's very delicate and it can be destroyed very easily.
24 And with any type of friction -- I mean, heat -- there's a lot
25 of different things that can destroy. Wiping, I mean, that can

1 destroy a fingerprint. And that -- that's primarily some of
2 the reasons why it wouldn't be there.

3 Q. So are you saying that if anything is exposed to extreme
4 heat, the heat can effectively vaporize the fingerprint or
5 destroy it in some other fashion?

6 A. It can.

7 Q. What are some of the larger features of a fingerprint that
8 an examiner uses to distinguish one person's fingerprint from
9 another person's?

02:08 10 A. Well, we have three major patterns, they're called flow
11 patterns, on our fingers that we use. And we call them flow
12 patterns. We have arches, loops and whirls, and they all look
13 different.

14 Q. Let me pause you right there.

15 A. Okay.

16 MR. WEINREB: Can I have Exhibit 1535 just for the
17 witness, please?

18 Q. Trooper, do you see that exhibit?

19 A. I do.

02:09 20 Q. Okay. Would that help you illustrate --

21 A. Absolutely.

22 MR. WEINREB: Your Honor, the government's not
23 offering it as evidence, just using it as a chalk.

24 THE COURT: Okay.

25 BY MR. WEINREB:

1 Q. Go ahead.

2 A. The loop is all the way to the left-hand side. So the
3 ridges will actually come in from the same side, loop around
4 the top of what we call the core, which is where the ridges
5 actually are coming up and around, and they'll exit out the
6 same side. So if you're looking at this, this would be a left
7 slant loop. So the ridges came in from the left, they looped
8 up and around what is the center of the fingerprint, and then
9 they exit out the left-hand side. The whirls --

02:10 10 Q. Before you continue, let me just let you know, the screen
11 in front of you is touch-sensitive. If you would like to mark
12 on it, just use the pad of your finger and press hard and
13 you'll be able to. Also, if you touch the screen, it will
14 leave an arrow. There you go. If you want to clear it, the
15 right upper-hand corner of your screen will clear it.

16 A. So this is what I'm talking about, with -- the ridges were
17 coming in from the left-hand side, looping up and around the
18 core, and they exit out the same side.

19 Q. Trooper, you have to do the trick of pressing it and
02:10 20 talking into the microphone at the same time.

21 A. I apologize.

22 Q. No problem.

23 A. The whirl-shaped pattern -- this is the core right here,
24 and that circular area, that's what we're looking at as far as
25 the core. And a whirl is constantly circular, and it's

1 circular all the way out to the deltas. An arch enters in from
2 one side, continues all the way through and exits out the
3 opposite side.

4 Q. Are there other features of a fingerprint that are more
5 minute, tinier, that you also use to compare one fingerprint to
6 another?

7 A. There are.

8 MR. WEINREB: Can we have 1536 for the witness,
9 please.

02:11 10 Q. Again, would this diagram help you illustrate for the jury
11 those minutia, as they're called?

12 A. Yes.

13 THE COURT: Okay.

14 THE WITNESS: Okay. So the first thing I'm going
15 to --

16 Q. Hang on. It takes a little bit for the photos to come up
17 on the screens.

18 A. I apologize.

19 Q. No problem. Go ahead.

02:11 20 A. So this area right here -- that I'm marking right here
21 would be the core. That's the center point of a latent
22 fingerprint impression that you would see with a loop or a
23 whirl. A bifurcation is actually one ridge, and I'm marking it
24 now, that is becoming two separate ridges. That would be a
25 bifurcation. An ending ridge which I'm going to describe right

1 here, down here, right over by the delta, is an ending ridge.
2 It's an actual ridge that comes to an abrupt end.

3 This would actually be considered a short ridge, this
4 ridge that I'm -- I just marked there. That's also another
5 characteristic that we can see. This area right here is an
6 island. Typically, an island is as high as it is wide. It's a
7 very small piece of a ridge. And this area right here is what
8 I was referring to as a delta. Loops have deltas and whirls
9 have deltas. So a loop will only have one and -- a loop will
02:13 10 only have one and a whirl will have two.

11 Q. And delta is a term sometimes used to -- for the shape of
12 a triangle, essentially?

13 A. That's correct.

14 And the last thing that is indicated here, where you sweat
15 out of -- when you're perspiring and what allows you to leave a
16 fingerprint is a pore. And down right here where I just marked
17 where the line is indicating to is a pore. It's an open area,
18 and the reason why you see that actual -- as an open space
19 there is because of the fact that it goes down, and that's
02:14 20 where you're actually sweating from.

21 Q. When you find a latent fingerprint at a crime scene, does
22 it always have enough detail that you can compare it to a known
23 print?

24 A. No.

25 Q. Why is that?

1 A. Well, when you're actually touching something or a
2 surface -- I mean, it depends on the actual pressure. It
3 depends on how you touched it, what was the temperature, were
4 you sweating. There's many different factors on whether or not
5 you leave a fingerprint. And also, what was your movement when
6 you touched, because you can actually smudge and actually
7 obliterate and destroy a fingerprint by how you might be
8 grabbing a surface.

9 Q. So if you leave a fingerprint on something but either it's
02:14 10 only a partial print or a smudged print, can that be used in
11 fingerprint comparison?

12 A. It can.

13 Q. And if there's not enough detail there or if it's too
14 smudged, is it possible to confidently make a comparison?

15 A. If there's not enough there, then, no, I would not make a
16 comparison.

17 Q. So -- but if a latent fingerprint does have enough detail
18 and it's not too smudged, what method do you use to compare it
19 to a known print?

02:15 20 A. We use the ACE-V methodology.

21 Q. ACE-V. So let me just break that down. That's ACE-V?

22 A. Correct.

23 Q. What does the A stand for?

24 A. Analysis.

25 Q. What does that mean?

1 A. Analysis is what we're looking at. And we're looking at
2 the ridge flow, we're looking at everything I just described
3 here with all these characteristics that I just showed you.
4 And we're looking at edgeoscopy and pores and possibly scars.
5 Like right here, this area right here is -- could be a scar or
6 could be a flection crease, but I would say that that would
7 probably be a scar that this person probably received, you
8 know, during, just, natural -- like just living.

9 Q. What does the C in ACE-V stand for?

02:16 10 A. It's comparison. It's the comparison phase. It's when we
11 actually take the latent, that we document it at the scene,
12 we're comparing it to a known fingerprint card or a known that
13 we receive.

14 Q. What does the E stand for in ACE-V?

15 A. Evaluation.

16 Q. What does that mean?

17 A. That's when I'm making a determination. That's when I can
18 say it's either an individualization, an exclusion or it's
19 inconclusive.

02:17 20 Q. If you take a latent print and you individualize it to a
21 known print, isn't that the same as saying you've identified
22 the known print and the latent print as being sufficiently
23 similar that you can say it comes from the same person?

24 A. Yes.

25 Q. And then what does the V stand for?

1 A. Verification.

2 Q. Explain that.

3 A. We have a process with the state police, if I make an
4 individualization or identification to a latent fingerprint,
5 that it's passed on as two clean -- like there's two clean
6 copies of what I was looking at, and they go through an ACE-V
7 process as well where they're making comparisons to the known
8 and latent and they have to decide as well if it's an
9 individualization or an identification as well. I can't just
02:17 10 be the only one. There's the verification phase, so I'm being
11 backed up by two other personnel, latent print analysts, and
12 one of them is always going to be a supervisor.

13 Q. This ACE-V method you've just described, is that a widely
14 used method?

15 A. It is a widely used method, and it's the system by which
16 most latent print examiners are taught.

17 Q. Let me ask you about another fingerprint expert term:
18 Fuming. What is fuming?

19 A. Fuming is a process by which we heat Super Glue. We heat
02:18 20 it to the point where it becomes a vapor. The vapor adheres to
21 the friction ridge residue that we leave behind when we touch a
22 surface. This -- it makes it more visible for us to see and
23 actually document and also helps us with further processing of
24 some friction ridge or a latent print that we see.

25 Q. What is latent fingerprint powder?

1 A. Latent fingerprint powder is a formula that we use. It
2 comes in different colors. And if, say, we have a darker
3 substrate like the top of this binder that I have here, I would
4 want to use white fingerprint powder on a substrate like this
5 so I could actually see the fingerprint that was left behind.
6 If I was using -- if I had, like, something white, I would
7 use -- want to use black.

8 So we're just using -- it's a contrast in color so we can
9 actually see the latent fingerprint. It's a part of
02:19 10 processing.

11 Q. On April 20th, 2013, did you process two automobiles that
12 had been recovered in Watertown on Laurel Street and Spruce
13 Street the day before, on April 19, 2013?

14 A. I did.

15 Q. Where were the automobiles located at that time?

16 A. They were in the garage at the Watertown Police
17 Department, which is a controlled environment.

18 Q. What were the make, model and color of the two
19 automobiles?

02:20 20 A. There was a black Mercedes SUV. I think it was -- can I
21 refer to my report, if you don't mind?

22 Q. Yes. If you need it to refresh your recollection, you go
23 right ahead.

24 A. Thank you. It's a Mercedes ML-350 black SUV, and a green
25 Honda Civic color -- a green Honda Civic.

1 Q. Was anyone else processing those vehicles with you?

2 A. Yes. There was Lieutenant Steve Bennett, Sergeant William
3 Tarbokas, Christopher -- Trooper Christopher Dolan, and Trooper
4 Robert Quigley, and members of the crimanlistics unit.

5 Q. Did you recover items of evidence from the Honda and
6 witness other people recovering items of evidence from it?

7 A. We did.

8 Q. Did you personally?

9 A. I did.

02:21 10 MR. WEINREB: Could I have Exhibit 1554 for the
11 witness, please.

12 Q. Do you recognize that?

13 A. I do.

14 Q. Is that a fair and accurate picture of the Honda in the
15 garage?

16 A. It is.

17 MR. WEINREB: The government offers 1554.

18 MS. CLARKE: No objection.

19 (Government Exhibit No. 1554 received into evidence.)

02:21 20 BY MR. WEINREB:

21 Q. Is this the green Honda you were just referring to?

22 A. It is.

23 Q. And is this the place where you examined it?

24 A. It is.

25 MR. WEINREB: Exhibit 869 for the witness, please.

1 Q. Do you recognize that?

2 A. I do.

3 Q. What is that a picture of?

4 A. It's the front passenger compartment of the Honda Civic.

5 Q. You say the "passenger compartment." Where is the
6 steering wheel in that?

7 A. It's right to the left-hand side. It's right in front of
8 the car seat.

9 Q. Okay. So what do you mean by passenger compartment?

02:22 10 A. It's where the -- the people driving would sit, or anybody
11 that was traveling in the car.

12 Q. Okay. Is this a fair and accurate picture of how the
13 Honda looked when you first laid eyes on it in the garage?

14 A. It is.

15 Q. I'm going to show you a series of pictures now, and I'm
16 going to ask you the same question about each one.

17 MR. WEINREB: 870, please.

18 Q. Fair and accurate?

19 A. That's the same area that we were just looking at. The
02:22 20 driver's side door is open.

21 Q. Okay. I'm going to ask you to describe the images in a
22 minute for the jury. Now I just want to know whether they're
23 fair and accurate photos.

24 A. They're fair and accurate.

25 Q. Okay. That's one. Let's look at 871.

1 A. Fair and accurate.

2 Q. 872?

3 A. Fair and accurate.

4 Q. 873?

5 A. Fair and accurate.

6 Q. 874?

7 A. Fair and accurate.

8 Q. And 875.

9 Now, that's a slightly different picture. That's not,
02:23 10 obviously, of the Honda, but do you recognize the items in
11 there?

12 A. I do.

13 Q. And do they appear to be the same pair of white gloves
14 that was inside the Honda?

15 A. They do.

16 MR. WEINREB: The government offers 869 through 875.

17 MS. CLARKE: No objection.

18 THE COURT: All right. Admitted.

19 (Government Exhibit Nos. 869 through 875 received into
02:24 20 evidence.)

21 BY MR. WEINREB:

22 Q. So let's now start with 869. Just wait a moment for it to
23 come up.

24 All right. So this is a picture of the Honda taken
25 through the front driver's side window?

1 A. It is.

2 Q. If you look in the wheel well or the -- strike that. Not
3 the wheel well, but if you look in the -- where the driver's
4 feet would be, what is pictured there?

5 A. You could see a glove up by where the pedals would be, and
6 you could see the fingers of another glove underneath the
7 bottom of the driver's side seat.

8 Q. Can you circle that second glove to make it easier to see?

9 A. (Witness complies.)

02:24 10 Q. Okay. Now, is that exactly where they were when you got
11 to the Watertown garage?

12 A. Yes.

13 MR. WEINREB: 870, please.

14 Q. What's this a picture of?

15 A. It's a picture of the same areas that we were just talking
16 about. It's the driver's side of the car with the driver's
17 side door opened.

18 MR. WEINREB: 871, please.

19 Q. All right. Again, is that just another angle of the
02:25 20 same --

21 A. Yup. It's just a different angle of what we were just
22 looking at.

23 MR. WEINREB: 872, please.

24 BY MR. WEINREB:

25 Q. And that's a close-up?

1 A. Yes.

2 MR. WEINREB: 873.

3 Q. Is that a close-up of one of the gloves?

4 A. It is.

5 MR. WEINREB: 874, please.

6 Q. And is that a close-up of the other glove?

7 A. It is.

8 MR. WEINREB: And then 875, please.

9 Q. All right. Is that a photo of the two gloves having been
02:26 10 removed from the Honda?

11 A. It is.

12 Q. All right. Do you know where this was taken?

13 A. It was taken directly alongside of the Honda.

14 Q. So that after the gloves were photographed in place, they
15 were removed from the Honda?

16 A. That's correct.

17 Q. What's the surface they've been placed on?

18 A. It's on butcher paper.

19 Q. That's to prevent it from being contaminated?

02:26 20 A. That's correct.

21 Q. And then it was photographed again?

22 A. That's correct.

23 Q. And then did somebody collect them and bag them for
24 evidence purposes?

25 A. That's correct.

1 Q. Who did that?

2 A. I did that with Chemist Kelley King.

3 Q. And was it done according to proper procedures in order to
4 maintain the integrity of the evidence and prevent it from
5 being contaminated?

6 A. It was.

7 MR. WEINREB: Can I have Exhibit 1551 for the witness,
8 please.

9 Q. Do you recognize these items?

02:27 10 A. I do.

11 Q. How do you recognize them?

12 A. I recognize them from where we -- from this picture and
13 from remembering taking the photo where they were.

14 Q. Does this fairly and accurately depict those items?

15 A. It does.

16 MR. WEINREB: The government offers 1551.

17 MS. CLARKE: No objection.

18 (Government Exhibit No. 1551 received into evidence.)

19 BY MR. WEINREB:

02:27 20 Q. Were these items in the car?

21 A. They were.

22 Q. Where in the car were they when you first saw them?

23 A. The driver's door pocket on -- there's -- if you look at
24 the driver's side door, there's a pocket underneath where you
25 would open the door. These contents -- these items were

1 located in the pocket alongside there.

2 Q. After you found them there, did you remove them?

3 A. I did.

4 Q. And were they removed in such a way to preserve any
5 fingerprints that might be on them?

6 A. They were.

7 Q. Again, are we seeing them laid out on the butcher paper
8 next to the car?

9 A. Yes.

02:28 10 Q. What's the item at the very top of the picture? And I'll
11 circle it. It's at the top in the center, it's a little
12 rectangle.

13 A. That would be an Apple iPod Shuffle.

14 MR. WEINREB: Can I have Exhibit 876 for the witness,
15 please.

16 Exhibit 1553 for the witness, please.

17 Q. Do you recognize this?

18 A. Yes.

19 Q. Is that a fair and accurate picture of the Honda from the
02:29 20 angle at which it's taken?

21 A. Yes.

22 MR. WEINREB: The government offers 1553.

23 MS. CLARKE: No objection.

24 THE COURT: Okay.

25 (Government Exhibit No. 1553 received into evidence.)

1 BY MR. WEINREB:

2 Q. What angle was this taken from?

3 A. This angle is taken from the passenger's side through the
4 passenger's side window.

5 Q. Focusing on the portion of the photo that I've just
6 enlarged, what's right in the center of that photo?

7 A. The center keys, the gear box and the radio.

8 Q. Let's just focus on the keys. Were those in the ignition
9 when you found the Honda in the garage?

02:30 10 A. Yes.

11 Q. And the keys and these tags, were they also part of the
12 key chain at that time?

13 A. Yes.

14 MR. WEINREB: The government offers 1553.

15 MS. CLARKE: No objection.

16 BY MR. WEINREB:

17 Q. So again, this is the Honda through the passenger window?

18 A. It is.

19 Q. All right. And the keys that you were just describing,
02:31 20 that's them right there?

21 A. Yes.

22 MR. WEINREB: Exhibit 877 for the witness, please.

23 Q. Is that a fair and accurate picture of the keys?

24 A. Yes.

25 MR. WEINREB: The government offers 877.

1 MS. CLARKE: No objection.

2 (Government Exhibit No. 877 received into evidence.)

3 BY MR. WEINREB:

4 Q. And can you read what it says on the tag to the extent
5 that it's visible?

6 A. I could see part of a word that says, probably,
7 "university"; I see M-A-S, and I see D-A-R-T.

8 MR. WEINREB: Exhibit 1549 for the witness, please.

9 Q. Is that a fair and accurate photo?

02:32 10 A. Yes.

11 MR. WEINREB: The government offers 1549.

12 MS. CLARKE: No objection.

13 (Government Exhibit No. 1549 received into evidence.)

14 BY MR. WEINREB:

15 Q. What's pictured in Government's Exhibit 1549?

16 A. What you see here is just contents, miscellaneous, things
17 that you would probably see in any compartment like that. It's
18 Band-Aids, you see --

19 Q. Just the general -- that's the center console?

02:33 20 A. Yes.

21 Q. Okay. Because I have a better photo that will help you
22 describe the contents.

23 MR. WEINREB: 1550 for the witness, please.

24 Q. All right. And are those the contents of the center
25 console spread out on the butcher paper?

1 A. They are.

2 MR. WEINREB: We offer 1550.

3 MS. CLARKE: No objection.

4 (Government Exhibit No. 1550 received into evidence.)

5 BY MR. WEINREB:

6 Q. I'd just like to focus your attention on one item right
7 now, which is the one that I'm highlighting. What is that, if
8 you know?

9 A. It looks like an iPod, an Apple iPod. And there's other
02:33 10 contents there too. There's a power cord there --

11 Q. That's okay. We'll just stick with the iPod. Is that
12 known as an iPod Nano?

13 A. Yes.

14 MR. WEINREB: Exhibit 878 for the witness, please.

15 Q. Do you recognize that?

16 A. I do.

17 Q. Okay.

18 MR. WEINREB: Exhibit 879, please.

19 And Exhibit 880, please.

02:34 20 Q. Are those all fair and accurate photos of items found in
21 the backseat of the Honda?

22 A. They are.

23 MR. WEINREB: The government offers those three
24 exhibits.

25 MS. CLARKE: No objection.

1 THE COURT: Okay.

2 (Government Exhibit Nos. 878, 879 and 880 received
3 into evidence.)

4 MR. WEINREB: Let's go back to 878, Mr. Bruemmer.

5 BY MR. WEINREB:

6 Q. What are we looking at here?

7 A. This is the backseat of the Honda Civic with the
8 back -- the rear driver's side door open.

9 MR. WEINREB: Exhibit 879.

02:34 10 Q. Is that a close-up?

11 A. Yes.

12 Q. Does there appear to be a wallet along the bottom of the
13 frame towards the middle?

14 A. Yes, there's a black wallet there.

15 MR. WEINREB: Exhibit 880, please.

16 Q. Was the wallet open so this picture could be taken?

17 A. It was.

18 Q. And that is a driver's license photo?

19 A. Yes.

02:35 20 Q. I will highlight the name here. Does it appear to be the
21 driver's license for Tamerlan Tsarnaev?

22 A. It is.

23 MR. WEINREB: Exhibit 881 for the witness, please.

24 Q. Was there a CD found in the glove box of the Honda?

25 A. There was.

1 Q. Is this a fair and accurate photograph of that CD?

2 A. It is.

3 MR. WEINREB: I'm going to offer 881.

4 MS. CLARKE: Your Honor, subject to the same objection
5 we had before.

6 THE COURT: Okay. Well, this is just a photo of it
7 anyway, I guess, right? You're not offering the item.

8 MR. WEINREB: The government will be about to offer --

9 THE COURT: For now it's the photo?

02:36 10 MR. WEINREB: Yes.

11 (Government Exhibit No. 881 received into evidence.)

12 BY MR. WEINREB:

13 Q. What did you do with these items after you removed them
14 from the car?

15 A. After they were removed, they were placed into evidence
16 bags. After they were documented, they were placed in an
17 evidence bag and they were secured.

18 Q. By placing -- what does it mean to place something in an
19 evidence bag and secure it?

02:36 20 A. Well, when we -- anytime we're dealing with any piece of
21 evidence, we're going to have all the proper protection on our
22 hands, our bodies, our feet, our faces to protect ourselves so
23 we don't contaminate any piece of evidence. So with a rubber
24 glove I picked up the CD and I placed it into an evidence bag.
25 The evidence bag was already premarked with identifiers, so we

1 knew that it was a purple CD, and that's primarily -- we place
2 it in the CD and then it's properly secured and then later
3 transported.

4 Q. All right. So that happened with the gloves?

5 A. I had rubber gloves on.

6 Q. No, I'm sorry. That happened with the white gloves that
7 you recovered from the Honda?

8 A. That's true, yes.

9 Q. And it happened with the CD?

02:37 10 A. Yes.

11 Q. And the keys?

12 A. Yes.

13 Q. And with the two iPods?

14 A. That's correct.

15 MR. WEINREB: Your Honor, may I just have one moment?

16 (Counsel confer off the record.)

17 MR. WEINREB: May I have Exhibit 1529 for the witness,
18 please.

19 Q. Do you recognize that?

02:38 20 A. I do.

21 Q. What is that?

22 A. It's a latent fingerprint card.

23 Q. Latent or known?

24 A. It's a known. I'm sorry. It's a known fingerprint card.

25 Q. And who is it the known fingerprint card for?

1 A. Dzhokhar Tsarnaev.

2 Q. The writing, the handwritten notations on it, who put
3 those there?

4 A. Those are us. Whoever made an individualization. When we
5 individualize something, there's a process we go through and we
6 mark the actual known fingerprint card as well as make markings
7 on some of the other paperwork that we have as well.

8 Q. All right. Is this a fair and accurate picture of the
9 actual known fingerprints of Dzhokhar Tsarnaev that you used to
02:39 10 make comparisons?

11 A. It is.

12 MR. WEINREB: The government offers 1529.

13 MS. CLARKE: It sounds like it may be a combination
14 exhibit and chalk, your Honor. I'm not clear given the
15 handwriting on it. We have, obviously, no objection to the
16 known prints of Mr. Tsarnaev being before the jury.

17 MR. WATKINS: May I have just a moment?

18 THE COURT: All right.

19 (Discussion off the record.)

02:39 20 MR. WATKINS: Thank you.

21 THE COURT: I'll admit it.

22 (Government Exhibit No. 1529 received into evidence.)

23 BY MR. WEINREB:

24 Q. Could you just walk us through this and explain what
25 the -- ignore the writing; I'm just interested in the

1 fingerprints.

2 A. Well, the way we take fingerprints on a card like this is
3 we start with the right hand first. So the right thumb is all
4 the way to the left in the top box, and that's a rolled right
5 thumb. Right next to that in the second box is the right index
6 finger, next to that is the right middle, next to that is the
7 right ring, and next to that is the right little.

8 Underneath -- on the second row underneath is the left
9 thumb, in the first box; the second box is the left index, left
02:40 10 middle, left ring and left little -- I'm sorry. So it starts
11 off with the left thumb, left index, left middle, left ring,
12 left little.

13 Q. And then below it?

14 A. Those are what we call "slap prints." They're just a --
15 instead of rolling them, we actually take a fingerprint where
16 we're just actually just placing the fingerprint straight down
17 onto the piece of paper or onto the actual glass.

18 Q. Okay.

19 MR. WEINREB: Can I have Exhibit 883 just for the
02:41 20 witness.

21 Q. Do you recognize that?

22 A. I do.

23 Q. What is that?

24 A. It's a latent fingerprint that we found on the Honda
25 Civic.

1 Q. Okay. When you say "we found it," did you find it
2 personally?

3 A. I did.

4 Q. Is that a fair and accurate photo of the fingerprint you
5 found on the Honda?

6 A. It is.

7 MR. WEINREB: The government offers 883.

8 MS. CLARKE: No objection.

9 (Government Exhibit No. 883 received into evidence.)

02:42 10 BY MR. WEINREB:

11 Q. Is this a photograph of a fingerprint?

12 A. This is a photograph of the fingerprint on the vehicle
13 with -- after it was fumed and powdered. And it has a
14 measurement tool in it as well.

15 Q. So you -- so we're actually looking at the surface of the
16 Honda right here?

17 A. Right here.

18 Q. And the raised things are the water and oil you spoke
19 about earlier?

02:42 20 A. Yes. What you're actually seeing are white ridges here.

21 So the areas that you're seeing the white are the actual ridges
22 of the fingerprint.

23 Q. So you used the Super Glue fuming and the powder and then
24 you took a high-resolution photo of it?

25 A. I did.

1 Q. And that's what you used to compare it to Mr. -- to the
2 defendant's known fingerprints?

3 A. I did.

4 MR. WEINREB: Exhibit 14 -- actually, excuse me one
5 second here, your Honor.

6 Exhibit 884, please, just for the witness.

7 Q. Is this a diagram you prepared to help illustrate for the
8 jury how you did your comparison?

9 A. It is.

02:43 10 MR. WEINREB: I'd ask that it be published and used as
11 a chalk.

12 THE COURT: Okay.

13 BY MR. WEINREB:

14 Q. Did you conclude that the fingerprint taken from the Honda
15 was one of the defendant's fingerprints?

16 A. I did.

17 Q. Okay. Can you walk us through how you reached that
18 conclusion?

19 A. So the process -- what I was talking about before with
02:44 20 ACE-V, I had already gone through the analysis phase, and I
21 went into the comparison phase and I compared it to Dzhokhar's
22 fingerprints. And when I got to the right index finger of
23 Dzhokhar, I saw similarities in ridge flow.

24 Q. Although it's fine, his name is Dzhokhar Tsarnaev, he'll
25 be "the defendant" for inside the courtroom.

1 A. The defendant.

2 So what I did was I saw the ridge flow -- similarities in
3 the ridge flow, and then I started looking farther into the
4 actual fingerprint itself and I started looking at minutia,
5 which are those smaller characteristics which I described like
6 the bifurcations, the ending ridges, and started making a
7 comparison to the right index finger of the defendant.

8 Q. What were the characteristics that you focused on in
9 particular with this print?

02:45 10 A. Well, immediately what I noticed that caught my eye was
11 the core area. If you look at the questioned fingerprint, you
12 could see three major ridges in the core. And if you look over
13 to the known fingerprint, you could see -- and I have that
14 indicated with F in that area. If you look at F, that's the
15 actual center ridge of the two other ridges that I'm talking
16 about when I'm marking these.

17 So those three main ridges and the core are what caught my
18 eye immediately, and then I started working off of that core
19 area. And what stood out to me primarily in the smaller
02:46 20 details are the unique characteristics and the uncommon things
21 that we're always looking for are -- if you look at C and D,
22 that's what we would refer to as a "short ridge." And if you
23 look over on C and D on a known fingerprint, you could see
24 where C and D is. And then if you see the spatial relationship
25 that you could see over on both of them where it's actually

1 located, that's what I saw as far as similarities. If you
2 actually walk up where C and D are, you will find A, and that
3 is a pretty large bifurcation.

4 There was many pieces of minutia that were marked. These
5 were pieces of minutia that I just used to help myself with
6 talking to you.

7 Q. And I apologize if you already said this, but where on the
8 Honda did you find this print?

9 A. Can I refer to my report?

02:47 10 Q. Certainly.

11 A. Thank you.

12 (Pause.)

13 A. It was on the rear driver's side door.

14 MR. WEINREB: Can I have Exhibit 885 for the witness,
15 please.

16 Q. Now, is this another latent fingerprint that was found on
17 the exterior rear driver's side door?

18 A. It is.

19 Q. Is that a fair and accurate image for it?

02:48 20 A. It is.

21 MR. WEINREB: The government offers 885.

22 MS. CLARKE: No objection.

23 (Government Exhibit No. 885 received into evidence.)

24 BY MR. WEINREB:

25 Q. Once again, was this print taken using that fuming and

1 powder method?

2 A. Yes, it was.

3 MR. WEINREB: Exhibit 14 -- I'm sorry. Exhibit 886
4 for the witness, please.

5 Q. And again, would this chart help you illustrate your
6 comparison?

7 A. It will. Can you actually come into the actual -- just
8 zoom in on the questioned fingerprint for me when I start
9 talking about it?

02:48 10 Q. Yes, I will.

11 A. Thank you.

12 MR. WEINREB: The government offers 886.

13 MS. CLARKE: I'd --

14 MR. WEINREB: I'm sorry. Does not offer it but asks
15 that it be published to the jury and used as a chalk.

16 THE COURT: Okay.

17 BY MR. WEINREB:

18 Q. I'm just going to take a moment so the jury can take this
19 in, and then I'll zoom in as you wish.

02:49 20 (Pause.)

21 Q. So these letters, A through F on the right and G through M
22 on the left, are those all points of comparison that you found?

23 A. Yes.

24 Q. And based on those points of comparison, did you conclude
25 that this latent print was Dzhokhar Tsarnaev's fingerprint?

1 A. I did.

2 Q. All right. I'm going to zoom in on the latent now. Is
3 that enough or --

4 A. Yes.

5 Q. Okay. Go ahead.

6 A. Okay. So when I'm looking at this, of course, like I was
7 describing before, these are white ridges. Now, the known is
8 black ridges because that was either inked -- or when we have
9 it rolled in the computer system, it comes out black. So these
02:50 10 are white ridges. So what I immediately saw with this detail
11 was the core again. You can see a lot of ridge endings or
12 ending ridges. There's many bifurcations that you could see.

13 Can you go back out, please? Thank you.

14 So what I'm indicating there in this comparator is there's
15 black ridges underneath the known and there's white ridges
16 underneath the questioned latent fingerprint. So immediately
17 when I started looking at the core and the ridge flow, I could
18 see immediately that the ridge flow and some of the actual
19 ridges looked very similar to me. So, again, what I did was, I
02:50 20 went down to -- past, you know, looking at the minutia and all
21 the characteristics, I started going and looking at known
22 fingerprints and I came to the right index finger of the
23 defendant and I started seeing similarities in the ridge flow
24 and then I started to make a further comparison using the
25 actual points that I show here on the comparator. There was

1 ending ridges, there was bifurcations. That's pretty much what
2 I did here.

3 Q. Now, I'm not going to go through this with every one of
4 them --

5 A. Okay.

6 Q. -- but did you also find the defendant's prints on the
7 inside of the Honda?

8 A. Yes.

9 Q. Where did you find them?

02:51 10 A. This actual fingerprint here is off the face of the radio.

11 Q. Anywhere else?

12 A. No, not that I recall.

13 Q. Okay. What about any on any of the items found inside the
14 Honda?

15 A. Yes.

16 Q. Which ones?

17 A. There was many items.

18 Q. Okay. Was his fingerprint found on the iPod Nano that you
19 recovered?

02:52 20 A. Yes. Yes.

21 Q. Did you find any of Tamerlan Tsarnaev's prints on the
22 outside of the Honda using this same method?

23 A. We did.

24 Q. Do you recall how many you found?

25 A. I believe -- well, no. There was one.

1 Q. Just one?

2 A. Just one.

3 Q. Where was it?

4 A. It was on the passenger's side of the vehicle.

5 Q. Did you find Tamerlan Tsarnaev's prints on any of the
6 items inside the Honda?

7 A. We did.

8 Q. On how many?

9 A. Many.

02:52 10 Q. You also processed the Mercedes SUV, you said?

11 A. That's correct.

12 MR. WEINREB: Could I have Exhibit 782 for the
13 witness, please.

14 Q. Do you recognize what this is a photo of?

15 A. I do.

16 Q. What is it a photo of?

17 A. It's a photo of the front of the Mercedes, the bumper
18 area. I was taking this photo on the ground when I took this
19 photo.

02:53 20 Q. This is in the Watertown garage?

21 A. It is.

22 Q. Is it a fair and accurate photo of what you saw when you
23 took the picture?

24 A. It is.

25 MR. WEINREB: Exhibit 783 for the witness, please.

1 Q. And that's a close-up?

2 A. It is.

3 Q. And is that also a fair and accurate photo?

4 A. It is.

5 MR. WEINREB: The government offers 782 and 783.

6 MS. CLARKE: No objection.

7 THE COURT: Okay.

8 (Government Exhibit Nos. 782 and 783 received into
9 evidence.)

02:53 10 MR. WEINREB: 782, please.

11 BY MR. WEINREB:

12 Q. So the -- would it be fair to say that the portion of the
13 Honda that appears on the right part of the frame is referred
14 to as the right front -- the driver's side quarter-panel or the
15 left front quarter-panel? You just tell me what you refer to
16 it as.

17 A. I would refer to that -- the front quarter-panel would be,
18 to me, like the piece that would be over the wheel, and this
19 would be the bumper area or on -- like showing the bumper of
02:54 20 the Mercedes.

21 Q. Fair enough.

22 MR. WEINREB: Can we have the close-up, 783, please?

23 Q. And is that an accurate photo of the left bumper of the
24 Mercedes? I mean, the left side of the bumper -- of the front
25 bumper of the Mercedes?

1 A. If I was to be sitting in the driver's seat, that would be
2 the left side of the car.

3 Q. And those red deposits, do they appear to be blood to you?

4 A. They look like red-brown stains to me.

5 Q. Okay. So you can't say if they're blood or not?

6 A. No, I can't.

7 MR. WEINREB: Exhibit 898 for the witness, please.

8 Q. Do you recognize this?

9 A. I do.

02:55 10 Q. Is this an illustration of a fingerprint comparison you
11 did with respect to the Mercedes?

12 A. It is.

13 Q. All right.

14 MR. WEINREB: Can we show the jury 898, please?

15 Q. Where was this latent fingerprint lifted from?

16 A. This latent was found and documented -- this is an actual
17 digital image of it on the vehicle, on the Mercedes. And this
18 was found on the gas tank cover of the Mercedes on the
19 passenger side.

02:56 20 Q. Did you match it to Dzhokhar Tsarnaev?

21 A. I individualized this to the right index finger of the
22 defendant.

23 MR. WEINREB: 904 for the witness, please.

24 Q. Does this chart help illustrate another comparison you
25 did?

1 A. It does.

2 MR. WEINREB: I'd ask it be published.

3 Q. The latent fingerprint pictured in this exhibit, where was
4 that found?

5 A. It was found right next to the previous one. It was right
6 next to 13-1.3. They were right next to each other on the
7 door -- on the exterior of the door of the gas tank.

8 Q. Okay. And did you individualize this latent print to the
9 right index finger of Dzhokhar Tsarnaev?

02:57 10 A. I did.

11 MR. WEINREB: Exhibit 900 for the witness, please.

12 Q. Does this chart illustrate another comparison you did?

13 A. It does.

14 MR. WEINREB: If we could publish 900, please.

15 Q. Where was this latent fingerprint found?

16 A. This latent fingerprint was found on the passenger-side
17 front corner-panel up towards the front of the car of the
18 Mercedes.

19 Q. So it was found on the outside of the Mercedes?

02:58 20 A. It was.

21 Q. And where the hood is?

22 A. It was right next to the hood and -- the area of the car
23 that's right above the wheel where the wheel well is, it's that
24 piece of the metal that's right above the wheel.

25 Q. On which side, driver's --

1 A. On the passenger's side.

2 Q. Did you individualize that latent print to the left ring
3 finger of Dzhokhar Tsarnaev?

4 A. I did.

5 MR. WEINREB: And then Exhibit 902 for the witness,
6 please.

7 Q. Again, does that illustrate another comparison that you
8 did?

9 A. It does.

02:58 10 MR. WEINREB: I'd ask that 902 be published.

11 Q. Where did you find this latent fingerprint?

12 A. This was located right next to the item that we just saw.
13 It was right next to 13-1.17.

14 Q. On the outside of the Mercedes?

15 A. Yes, it was.

16 Q. And did you individualize this print to the known left
17 middle finger of Dzhokhar Tsarnaev?

18 A. I did.

19 Q. How many of the defendant's fingerprints did you find on
02:59 20 the outside of the Mercedes?

21 A. Can I refer to my notes?

22 Q. Yes.

23 A. Can you repeat the question for me, please?

24 Q. How many total of the defendant's fingerprints did you
25 find on the outside of the Mercedes?

1 A. On the inside and --

2 Q. Not the inside, the outside.

3 A. The outside? Ten.

4 Q. How many, if any, of Tamerlan Tsarnaev's fingerprints did
5 you find on the outside of the Mercedes?

6 A. Three.

7 Q. How many of Dzhokhar Tsarnaev's fingerprints did you find
8 on items inside the Mercedes?

9 A. Two.

03:00 10 Q. And how many of Tamerlan Tsarnaev's fingerprints did you
11 find on items inside the Mercedes?

12 A. Seven.

13 MR. WEINREB: Exhibit 864 for the witness, please.

14 Q. Was a CD recovered from the CD player inside the Mercedes?

15 A. It was.

16 Q. What's pictured in 864?

17 A. The CD.

18 MR. WEINREB: 865 for the witness, please.

19 Q. And what's pictured in 865?

03:00 20 A. That's the back side of the CD.

21 MR. WEINREB: The government offers 864 and 865.

22 MS. CLARKE: I realize it's just photos, but we want
23 to preserve the objection.

24 THE COURT: All right. I'll admit the photos.

25 (Government Exhibit Nos. 864 and 865 received into

1 evidence.)

2 MR. WEINREB: Can we have 864.

3 BY MR. WEINREB:

4 Q. So that's the front of the CD?

5 A. That's correct.

6 Q. And the rear?

7 MR. WEINREB: Could we have 865?

8 Q. The rear?

9 A. Yes.

03:01 10 Q. Was this CD removed in such a way to preserve any
11 fingerprint evidence on it?

12 A. It was.

13 Q. Did you find a fingerprint on the CD?

14 A. We did.

15 Q. Whose fingerprint was it?

16 A. The defendant's.

17 Q. Did you also recover a magazine for a Ruger 9 mm pistol
18 from inside the Mercedes?

19 A. I did.

03:01 20 Q. Where was it?

21 A. It was in the -- on the driver's side next to the driver's
22 side seat.

23 MR. WEINREB: Exhibit 895 for the witness.

24 Q. Do you recognize that?

25 A. I do.

1 Q. Is that the magazine that was recovered?

2 A. It is.

3 MR. WEINREB: The government offers 895.

4 MS. CLARKE: No objection.

5 (Government Exhibit No. 895 received into evidence.)

6 BY MR. WEINREB:

7 Q. Now, earlier you talked about items that were recovered
8 from inside the Honda. I'm going to identify them now for you
9 by exhibit number. Exhibit 887 is the white gloves, Exhibit
03:02 10 888 were the keys from the ignition, and Exhibit 890 is the CD
11 from the glove compartment.

12 MR. WEINREB: Your Honor, at this time the government
13 offers those into evidence.

14 MS. CLARKE: The actual items?

15 MR. WEINREB: The actual items into evidence. He
16 testified they were recovered and packaged properly and
17 preserved.

18 THE COURT: Okay.

19 MS. CLARKE: I think we preserved the objection.

03:03 20 THE COURT: Yes. As we previously discussed, the CD
21 and the keys and the gloves will be admitted.

22 MS. CLARKE: Is it two CDs or one CD?

23 (Counsel confer off the record.)

24 MR. WEINREB: I believe the CD from the Mercedes is
25 already in evidence and the -- this is the CD from -- 890 is

1 the CD from the Honda.

2 THE COURT: The Mercedes CD from yesterday?

3 MR. WEINREB: No, I believe it was this morning.

4 THE COURT: Oh, was it this morning? Time flies. All
5 right. These three exhibits are admitted.

6 (Government Exhibit Nos. 887, 888 and 890 received
7 into evidence.)

8 MR. WEINREB: And one more, which I believe is 894,
9 which is the magazine, the 9 mm Ruger magazine that the witness
03:04 10 testified he recovered from the inside of the Mercedes, we
11 offer that.

12 THE COURT: Pictured in the photos that were just
13 shown?

14 MR. WEINREB: Yes. Pictured in 895.

15 THE COURT: All right. Admitted.

16 (Government Exhibit No. 894 received into evidence.)

17 MR. WEINREB: Thank you. The government has no
18 further questions.

19 MS. CLARKE: Just a few.

03:04 20 CROSS-EXAMINATION

21 BY MS. CLARKE:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. I think you've indicated to us, at least in your
25 reporting, and I'm not sure if you've indicated it to the jury

1 yet, there were 66 identified prints in the Mercedes?

2 A. Yes, there were.

3 Q. And 22 of those were on items inside the Mercedes?

4 A. Can I refer to my report?

5 Q. Surely.

6 A. Okay. Thank you.

7 Q. In fact, I could probably help you with where I got that
8 information from.

9 A. That's correct.

03:05 10 Q. You got it?

11 A. Yeah, I have it right here.

12 Q. And you testified about Mr. Tsarnaev -- Dzhokhar
13 Tsarnaev's prints in the Mercedes, correct? You testified
14 about finding prints of Mr. Tsarnaev in the Mercedes?

15 A. Yes; that's correct.

16 Q. But you also found prints of his older brother, Tamerlan,
17 on and in the Mercedes?

18 A. We did.

19 Q. All right. You also testified about prints found in the
03:06 20 Honda. Now, if someone owned a car or drove a car regularly,
21 you would expect to find their prints in the car. Is that
22 correct?

23 A. That's correct.

24 Q. And I take it by the identification of a print on a radio
25 faceplate, you can't say when that print was placed there,

1 right?

2 A. No, I can never -- I don't know when someone leaves a
3 fingerprint. We can't determine that.

4 Q. Fair enough. And if -- if the older brother, Tamerlan,
5 had driven that Honda, you wouldn't always find his prints on
6 it either?

7 A. That's correct.

8 Q. I think that you retrieved the wallet from the back of the
9 Honda. Is that correct?

03:06 10 A. That's correct.

11 Q. The wallet that we saw in one of the pictures?

12 A. Yes.

13 Q. And you found a print of Tamerlan Tsarnaev on the wallet,
14 correct? Do you need to look at your report?

15 A. Yeah, if you don't mind.

16 Q. That would be fine.

17 (Pause.)

18 A. We did.

19 Q. And you also retrieved that wallet from the back of the
03:08 20 car?

21 A. I did.

22 Q. And there were receipts inside that wallet?

23 A. That's correct.

24 Q. Can you tell the jury what receipts you found inside that
25 wallet? Do you have an independent memory of that?

1 A. No.

2 Q. I think they're shown in Government's Exhibit 882, if I
3 might Shanghai that exhibit.

4 MS. CLARKE: For the witness first.

5 Q. Does that appear to be at least a photograph of one
6 receipt and some others around the side?

7 A. It appears to be.

8 Q. Does that refresh your recollection about how many
9 receipts were found in the wallet?

03:08 10 A. No, it doesn't.

11 Q. All right. If I showed you a 302 about the collection of
12 these receipts, would it perhaps refresh your recollection?

13 A. Perhaps.

14 MS. CLARKE: May I approach?

15 THE COURT: You may.

16 MS. CLARKE: If we can both stand and look at the same
17 report, your Honor?

18 BY MS. CLARKE:

19 Q. Does that refresh your recollection about the receipts you
03:09 20 retrieved from the wallet?

21 A. Yes, it does.

22 Q. All right. And can we tell the jury the receipts you
23 found in the wallet including the type of receipt and the date?

24 A. The first one is a Target receipt dated 4/14 of 2013,
25 reflected -- do you want me to continue to read?

1 Q. If that refreshes your recollection, you can tell them,
2 yes.

3 A. Reflecting the purchase of two backpacks. There was also
4 a MoneyGram receipt dated 4/13 of 2013, reflecting a transfer
5 of \$900 with a destination to Russia.

6 Q. And that was in the name of Tamerlan Tsarnaev?

7 A. I'd have to actually look at the actual receipt itself --

8 Q. Okay.

9 A. -- to see whether or not that's --

03:10 10 Q. We'll do that.

11 A. I just have to see it.

12 Q. That's fine.

13 A. But, I mean -- and there's also a Home Depot receipt from
14 3/30 of 2013 reflecting a purchase of a soldering gun.

15 Q. Any other receipts?

16 A. Stateline Gun and Ammo Archery receipt dated 4/11 of 2013
17 from New Hampshire.

18 Q. And those receipts were all found in Tamerlan Tsarnaev's
19 wallet?

03:11 20 A. That's correct.

21 Q. And the sunglasses that were found with the wallet, do you
22 recall them?

23 A. I do.

24 Q. And you found a print of Tamerlan Tsarnaev on that. Is
25 that correct?

1 A. I'm going to have to refer to my report.

2 (Pause.)

3 A. That is correct.

4 Q. Did you bring the receipts and the wallet with you to
5 court today?

6 A. No, I didn't.

7 Q. You did not have possession of it to bring it, I take it?

8 A. No.

9 MS. CLARKE: I'd like to see if we can bring up
03:12 10 pictures of the receipts, your Honor.

11 MR. WATKINS: Can I have this computer?

12 MS. CLARKE: For the witness first.

13 (Pause.)

14 MS. CLARKE: Judge, in case this is going to take a
15 couple of minutes, do you want to take the lunch break and then
16 we can come back and do the receipts and be done?

17 THE COURT: It depends on Mr. Watkins' estimate of how
18 long it will take.

19 MS. CLARKE: Here we go. I'm bringing up what I'd
03:13 20 like to have marked as Defendant's Exhibit -- next in order.

21 MR. WATKINS: 3051.

22 MS. CONRAD: 3051.

23 BY MS. CLARKE:

24 Q. Do you recognize that receipt?

25 A. I do.

1 MS. CLARKE: Perhaps since this is a little
2 cumbersome, we should just go and -- I'll move to admit it.

3 MR. WEINREB: Yes. Your Honor, this witness is a
4 fingerprint expert, so instead of having him just read
5 receipts, the government will stipulate that all of these items
6 were found in Tamerlan Tsarnaev's wallet, and has no objection
7 to them being admitted as evidence if the defense wishes to do
8 so.

9 MS. CLARKE: That would make things easier. Your
03:14 10 Honor, he didn't testify just as to fingerprints; he collected
11 a sizable amount of evidence.

12 THE COURT: Well, if he doesn't have them, I gather
13 they're available someplace and they can be admitted.

14 MS. CLARKE: That would be great. That would be
15 easier.

16 THE COURT: Okay.

17 MS. CLARKE: Thank you. Nothing further.

18 THE COURT: Any redirect?

19 MR. WEINREB: No, your Honor.

03:14 20 THE COURT: All right, sir. Thank you. You may step
21 down.

22 THE WITNESS: Thank you, your Honor.

23 (The witness is excused.)

24 THE COURT: And we will now take the lunch recess.

25 THE CLERK: All rise for the Court and the jury. The

1 Court will take the lunch recess.

2 (The Court and jury exit the courtroom and there is a
3 recess in the proceedings at 12:58 p.m.)

4 THE CLERK: All rise for the Court and the jury.

5 (The Court and jury enter the courtroom at 2:11 p.m.)

6 THE CLERK: Be seated.

7 THE COURT: Ms. Pellegrini?

8 MS. PELLEGRINI: The United States calls D.J. Fife.

9 D.J. FIFE, duly sworn

04:30 10 THE CLERK: State your name, spell your last name for
11 the record, speak into the mic and make sure everyone can hear
12 you.

13 THE WITNESS: My name is D.J. Fife. My last name is
14 spelled F-I-F-E.

15 DIRECT EXAMINATION

16 BY MS. PELLEGRINI:

17 Q. Good afternoon, Mr. Fife.

18 A. Good afternoon.

19 Q. Will you tell the jury by whom you're employed.

04:30 20 A. I'm employed by the FBI.

21 Q. In what capacity?

22 A. I'm a physical scientist, forensic examiner in the Latent
23 Prints Operations Unit at the FBI laboratory in Quantico,
24 Virginia.

25 Q. And how long have you held that position?

1 A. Almost 11 years.

2 Q. And briefly, could you give us some of your educational
3 and professional background?

4 A. I have a bachelor's degree from Utah State University in
5 Logan, Utah, and I have a master's degree in molecular
6 microbiology from UMass Boston. I completed an 18-month
7 training program with the bureau to become a physical scientist
8 forensic examiner.

9 Q. And also briefly, can you tell the jury what a physical
04:31 10 scientist does?

11 A. So in my case I work in the latent print unit. So what I
12 do is I receive items of evidence. I process those items of
13 evidence for the presence or detection of latent fingerprints.
14 I can compare those latent fingerprints to known fingerprints,
15 I can also launch those prints in a database, do automated
16 searches. And then I issue a report, and I can testify to that
17 in court.

18 Q. Now, as a result of your duties, do you often go to
19 various crime scenes yourself?

04:31 20 A. I am ERT-trained. I don't go that often, but I --
21 sometimes.

22 Q. In this particular case, did you happen to get called to
23 Boston on April 19th of 2013?

24 A. Yes.

25 Q. And when did you actually arrive in Boston?

1 A. It was later in the evening sometime. Like we had been
2 rescheduled a couple of times, so...

3 Q. And where did you go to? What was your assignment,
4 actually?

5 A. My assignment was to collect known fingerprints from two
6 individuals.

7 Q. And where were you going to go to do that?

8 A. The first -- they picked us up at the airport and they
9 drove us to a location where we printed one person, and then we
04:32 10 were taken to the second location where we printed the second
11 person.

12 Q. And was one of those locations Beth Israel Hospital here
13 in Boston?

14 A. Yes.

15 Q. Now, I know we've talked about fingerprints, but I'm not
16 going to ask you about any fingerprints at this phase. What I
17 want to ask you about is did you see the receipt of property
18 from the defendant, Dzhokhar Tsarnaev?

19 A. Yes, I did.

04:32 20 Q. All right. And you were present when property was taken
21 from his person and bagged into evidence?

22 A. Yes.

23 Q. All right. I'd like to show you what's been marked as
24 identification as Government's Exhibit 921.

25 MS. PELLEGRINI: May I approach, your Honor?

1 THE COURT: All right.

2 BY MS. PELLEGRINI:

3 Q. Do you recognize that package?

4 A. Yes.

5 Q. And do you recognize the contents?

6 A. The contents or the content?

7 Q. The contents.

8 A. Would you like me to open it?

9 Q. Not just yet.

04:33 10 A. Okay.

11 Q. But do you recall seeing this property removed from the
12 defendant and being taken into evidence and bagged in that
13 manner?

14 A. Yes. I remember Special Agent Crow and Lord writing these
15 labels on the bag.

16 Q. And with respect to the contents, did you see the contents
17 of the bag specifically?

18 A. Before it was bagged everything was placed on brown paper
19 and photographed.

04:33 20 MS. PELLEGRINI: Your Honor, the government would
21 offer the Exhibit 921.

22 MR. WATKINS: No objection.

23 (Government Exhibit No. 921 received into evidence.)

24 BY MS. PELLEGRINI:

25 Q. Agent Fife, I'm going to ask you to open the evidence

1 envelope which is currently sealed.

2 A. (Witness complies.)

3 Q. In removing the contents, can you describe for the jury
4 what they're seeing.

5 A. It's labeled "952.27 in U.S. currency."

6 Q. Now, you indicated that you saw this currency laid out on
7 paper before it was bagged?

8 A. Yes.

9 Q. Did you make any particular observations about the nature
04:34 10 and denominations of the currency?

11 A. It was taken out of a wallet. There were some
12 identification cards and there was also cash. There was a
13 large number of crisp \$20 bills.

14 Q. Do you recall the amount of the large -- the large amount
15 of the crisp \$20 bills?

16 A. It was probably close to \$900.

17 Q. And thereafter it was taken from the hospital and it went
18 into evidence, correct?

19 A. After we left the hospital, we took this -- all the
04:35 20 evidence, and we took it to the evidence location and signed it
21 into evidence storage, yes.

22 Q. All right. Thank you.

23 MS. PELLEGRINI: I have no further questions.

24 THE COURT: Any defense examination?

25 MR. WATKINS: Yes.

1 THE COURT: Okay.

2 CROSS-EXAMINATION

3 BY MR. WATKINS:

4 Q. Good afternoon, Agent Fife.

5 A. Good afternoon. I'm actually not an agent, just for the
6 record.

7 Q. I'm sorry. Mr. Fife.

8 You actually went over to Beth Israel Deaconess Medical
9 Center?

04:36 10 A. Yes.

11 Q. And that's where you obtained the items that you -- that
12 you forwarded to the lab?

13 A. Yes; I was part -- I don't think my name appears on the
14 chain of custody, but I was in the room when it happened, yes.

15 Q. And there were several FBI special agents and other
16 persons like yourself?

17 A. Yes; I think there were five. There was a photographer
18 and special agents and ERT personnel and two latent fingerprint
19 examiners.

04:36 20 Q. In addition to those items that you collected, you also
21 collected clothing of Mr. Tsarnaev?

22 A. I didn't collect it, but, yes, it was collected.

23 Q. You were present while it was being collected?

24 A. Yes.

25 Q. And Mr. Tsarnaev was actually undergoing medical

1 procedures at the time. Is that correct?

2 A. Yes.

3 Q. He was visibly quite injured?

4 A. Yes.

5 Q. And particularly in regard to the clothes, did you observe
6 doctors cutting off or taking off the clothes?

7 A. Yes.

8 Q. And were those immediately collected by one of the team
9 that was with you there?

04:37 10 A. I believe what happened is that the doctor placed them
11 into biohazard bags and then they were passed into the room
12 next door, and in the room next door is where they were removed
13 from the bags and where they were inventoried and the labels
14 were written and the photographs were taken.

15 Q. And that was, again, something that you were present for?

16 A. Yes.

17 Q. I want to show you --

18 MR. WATKINS: This is just for the witness.

19 Q. -- what's been marked Defendant's Exhibit 3058.

04:37 20 Is that the jacket that -- or the sweatshirt that you saw
21 being cut off of Dzhokhar Tsarnaev and that was put
22 into -- processed by your team?

23 A. It wasn't processed, but it was collected, yes.

24 Q. And to your knowledge, where was that sweatshirt taken, or
25 given after that?

1 A. Where was it physically taken?

2 Q. Was it given to the Massachusetts State Police?

3 A. I don't know the answer to that. I don't think so. I
4 don't know. I thought it stayed in bureau possession.

5 MR. WATKINS: May I approach, your Honor?

6 Q. I'm placing before you what is identified as Defendant's
7 Exhibit 3061. And can you read what the writing is on the
8 front of that?

9 A. It says -- it has the case ID number at the top, and then
04:38 10 it says -- would you like me to read out the case ID?

11 Q. Please.

12 A. 415MBS2814367. It just says "April 20th, 2013," and that
13 was actually just after midnight so the date is both the 19th
14 and the 20th on some of the evidence. It says "Adidas brand
15 medium-sized black-hooded sweatshirt from person of Dzhokhar
16 Tsarnaev. Beth Israel Hospital, Boston, Massachusetts." And
17 then it has the name Christopher -- Special Agent Christopher
18 Lord and Special Agent Alexia Crow, and they have initialed the
19 packaging.

04:39 20 Q. And based on your experiences being in the -- were those
21 two agents in the room with you?

22 A. Yes.

23 Q. Does the description on the bag match the photograph
24 you're looking at?

25 A. Yes.

1 MR. WATKINS: Your Honor, I would ask to admit Exhibit
2 3058, which is the picture of the sweatshirt, and 3060, which
3 is the sweatshirt itself.

4 MS. PELLEGRINI: 3060 or 3061?

5 THE COURT: You said 3061 earlier.

6 MR. WATKINS: I'm sorry. 3061.

7 MS. PELLEGRINI: No objection, your Honor.

8 THE COURT: Okay.

9 (Defense Exhibit Nos. 3058 and 3061 received into
04:40 10 evidence.)

11 MR. WATKINS: And may we publish the picture to the
12 jury.

13 BY MR. WATKINS:

14 Q. And again, Mr. Fife, given the description on that bag,
15 this is the -- and your experiences in the Beth Israel
16 Deaconess Medical Center observing the procedure, this is a
17 picture of a sweatshirt that was taken off of Dzhokhar
18 Tsarnaev?

19 A. Yes.

04:40 20 MR. WATKINS: That's all I have, your Honor.

21 MS. PELLEGRINI: No redirect, your Honor.

22 THE COURT: All right. Thank you, Mr. Fife. You may
23 step down.

24 THE WITNESS: Thank you.

25 (The witness is excused.)

1 MR. WEINREB: The United States calls Stephanie Waite.

2 STEPHANIE WAITE, duly sworn

3 THE CLERK: Have a seat. State your name and spell
4 your last name for the record, keep your voice up and speak
5 into the mic.

6 THE WITNESS: Stephanie Waite, W-A-I-T-E.

7 DIRECT EXAMINATION

8 BY MR. WEINREB:

9 Q. Good afternoon.

04:42 10 A. Good afternoon.

11 Q. Where do you work?

12 A. Massachusetts State Police Crime Laboratory.

13 Q. How long have you worked there?

14 A. Almost seven years.

15 Q. What are your job responsibilities?

16 A. I'm a forensic scientist in the Crime Scene Response and
17 Criminalistics units.

18 Q. Where did you go to school and what degrees have you
19 earned?

04:42 20 A. I have an undergraduate at Lycoming College in
21 Pennsylvania, I have a master's of forensic science as well
22 from the University of New Haven, and in undergraduate, I have
23 biology and chemistry bachelor of science degrees.

24 Q. Can you say a little more about what you do for a living?

25 A. The Crime Scene Response Unit, I respond to crime scenes

1 to process items and the area for biological evidence and trace
2 materials. Biological evidence would be things like blood,
3 semen, saliva, and then trace materials could be gunshot
4 residues and hairs and fibers. And then in the lab I do mostly
5 the same thing with items that I have either collected from the
6 crime scene or that other agencies have collected and submitted
7 to the lab.

8 Q. Do you have any specialized training in doing those things
9 you just described?

04:43 10 A. In addition to the in-house training that I was under,
11 I've also taken courses in blood stain pattern analysis.

12 Q. After getting trained, did you have to take an examination
13 to ensure that you knew how to do what you do properly?

14 A. Yes. During the training there were written and
15 competency tests, and then at the end there was a cumulative
16 written exam and a cumulative competency test.

17 Q. Did you pass?

18 A. Yes, I did.

19 Q. Any additional training over the years?

04:43 20 A. No.

21 Q. I'm sorry. Any additional tests over the years?

22 A. Yes. Every year I have what we call proficiency tests,
23 and it's just to make sure that I'm still able to perform all
24 of the testing as I should be. I have one in crime scene, one
25 in trace, and one in biological fluid identification each year.

1 Q. So in the course of your work, how many blood, semen,
2 other types of samples have you analyzed?

3 A. I'm not sure because we don't count by sample; I count by
4 case, and I have been involved in over a thousand cases.

5 Q. Did you participate in the Sean Collier murder
6 investigation?

7 A. Yes, I did.

8 Q. As part of that investigation, did you process items for
9 blood?

04:44 10 A. Yes, I did.

11 Q. How do you determine if there's blood on an item of
12 evidence?

13 A. It's two separate tests. The first one is a screening
14 test, and that can indicate that a stain either is or is not
15 blood, and that's called the Ouchterlony, or OT, test. And
16 then if I get a positive result with that one, I will go on and
17 do a more confirmatory test -- it's the HemaTrace test -- and
18 that confirms that the sample is blood and indicates the
19 species origin is from a human.

04:44 20 MR. WEINREB: Can I have Exhibit 907 for the witness,
21 please.

22 Q. So looking at your screen, do you see Exhibit 907?

23 A. Yes, I do.

24 Q. And that's a photograph of a pair of gloves?

25 A. Yes, it is. Well, they're not a pair of gloves; it's two

1 separate gloves.

2 Q. Fair enough. But they're two gloves. And at the bottom
3 of the picture are the initials SJW, correct?

4 A. Yes.

5 Q. Are those your initials?

6 A. Yes, they are.

7 Q. Now I'd like you to take a look at the Exhibit 908.

8 (Photograph displayed.)

9 Q. And now 909.

04:45 10 (Photograph displayed.)

11 Q. And now 910.

12 (Photograph displayed.)

13 Q. Are those four photographs fair and accurate photographs
14 of what's depicted in them?

15 A. Yes.

16 MR. WEINREB: The government offers 907 to 910.

17 MR. WATKINS: No objection.

18 THE COURT: Okay.

19 (Government Exhibit Nos. 907, 908, 909 and 910

04:46 20 received into evidence.)

21 MR. WEINREB: Let's start with 907.

22 BY MR. WEINREB:

23 Q. So what are we looking at here?

24 A. This is the exterior dorsal, or back side, of the gloves.

25 Q. Did you take this photo?

1 A. Yes, I did.

2 Q. Where did you take it?

3 A. At the crime laboratory.

4 Q. Where did you first see these two gloves?

5 A. When I was on-scene in Watertown on Laurel Street, there
6 was a Honda Civic parked in the middle of the street, and this
7 set of gloves was in there, in the front driver's side floor
8 area.

9 Q. Who collected the gloves from the Honda?

04:46 10 A. Kelley King. She's another criminalist that works with
11 me.

12 Q. Do you know what she did with them?

13 A. She collected them the next day and put them in a brown
14 paper bag and submitted them to the crime lab.

15 Q. And then that's how you received them?

16 A. Correct.

17 Q. When you received them, were they packaged properly?

18 A. Yes, they were.

19 Q. Were they assigned a lab number?

04:47 20 A. Yes, they were.

21 Q. What number?

22 A. 13-08140.

23 Q. Did they get an item number in addition to the -- that
24 number?

25 A. Yes. They're Item No. 12-9.

1 Q. Did you test the outside of these gloves for blood?

2 A. Yes, I did.

3 Q. Did you collect -- well, let's just take a look. So you
4 said we're looking at the backs of the gloves here?

5 A. Correct.

6 MR. WEINREB: Can we have 908, please.

7 Q. And what's that a picture of?

8 A. This is the exterior palmar side of the gloves.

9 MR. WEINREB: 909, please.

04:47 10 A. That one is the interior palmar side.

11 Q. Let's just focus on the outside of the gloves. Did you
12 test the outside of the gloves for blood?

13 MR. WEINREB: If you could go back to 908, please.

14 A. Yes, I did.

15 Q. What was the result of the test?

16 A. I did confirm the presence of blood and indicated that it
17 was from a human.

18 Q. Did you collect a sample of that blood for DNA testing?

19 A. I collected four separate samples.

04:48 20 Q. How did you do that?

21 A. Once I had confirmed what stains were blood, I took a
22 sterile swab, I added some water to it and I just swabbed up
23 the stain. And then once the swabs were dry, I packaged them
24 in a little tube and put it in a special storage area for DNA
25 testing.

1 Q. Why four?

2 A. I had wanted one from each side, so exterior palmar and
3 dorsal of left and right separately.

4 Q. How were the samples labeled?

5 A. Each tube has the case number, my initials, the date I
6 made the sample, and then the separate sample number of each
7 item.

8 Q. Where did you actually put those samples after you took
9 them?

04:48 10 A. Once I was done with them, we put them in a -- I put them
11 in a cold room, which is essentially a very large refrigerator
12 that is temperature and humidity controlled.

13 Q. And is that something that DNA analysts have access to so
14 they can get those materials when they need them?

15 A. Yes, they do.

16 Q. Now, the way that you processed the gloves, everything
17 you've said to us, is that the standard practice at the lab for
18 collecting and preserving blood samples for DNA testing?

19 A. Yes, it is.

04:49 20 Q. Did you also prepare a blood sample obtained from the
21 defendant, Dzhokhar Tsarnaev, via search warrant for DNA
22 testing?

23 A. Yes, I did.

24 MR. WEINREB: Exhibit 1519, please, which is already
25 in evidence.

1 Q. Do you recognize this?

2 A. Yes. That's a biohazard bag that has a blood tube in
3 it -- or three blood tubes, rather.

4 MR. WEINREB: And 1521, please.

5 A. That is the same bag, just the other side of it.

6 Q. And again, you took these pictures?

7 A. Yes, I did.

8 Q. These were assigned an identifying number?

9 A. Yes.

04:50 10 Q. What's the number?

11 A. They're with Case No. 13-08091, and specifically, Item No.
12 12-1 within that case.

13 Q. How did you prepare this known blood sample for DNA
14 testing?

15 A. I took just a portion of the liquid blood from each tube
16 separately and put it on a special piece of paper that has
17 preservatives to preserve the DNA in there. And once it dried,
18 I put it into an envelope and put it into that cold room area
19 again.

04:50 20 Q. Thank you.

21 MR. WEINREB: I have no further questions.

22 CROSS-EXAMINATION

23 BY MR. WATKINS:

24 Q. Good afternoon, Ms. Waite.

25 A. Good afternoon.

1 Q. Did you also process a sweatshirt?

2 A. Yes, I did.

3 Q. And was that an Adidas sweatshirt?

4 A. Yes, it was.

5 Q. Do you recognize this picture that's on the monitor now?

6 A. Yes; that's the sweatshirt I processed.

7 Q. And I'm showing you what's been admitted as Exhibit 3061.

8 Do you recognize that as --

9 A. Yes, this is the packaging for the sweatshirt you see in

04:51 10 the photo.

11 Q. Now, that's FBI packaging. Is that correct?

12 A. Yes.

13 Q. And when -- do you know, after the Massachusetts State

14 Police were done with it, did it indeed go to the FBI?

15 A. Yes; I transferred it to an FBI agent.

16 Q. Before you transferred it to the FBI agent, did you

17 conduct the similar kinds of tests for blood and other fluids?

18 A. I tested for blood, yes.

19 Q. And did you find blood on this Adidas sweatshirt?

04:51 20 A. Yes, I did.

21 Q. You found blood on several different spots, right?

22 A. Yes, I did.

23 Q. And actually, seven different spots that you processed for

24 further testing, right?

25 A. There were ten areas that I identified blood on. Eight of

1 those were tested later on in DNA.

2 Q. And you anticipated my next question. You did indeed send
3 those samples on for DNA processing?

4 A. That's correct.

5 Q. Now, at the Massachusetts State Police Criminalistics,
6 there a lot of different kinds of tests that can be performed
7 and a lot of people who can perform them, correct?

8 A. Yes.

9 Q. So in addition to DNA, there's also gunshot residue that
04:52 10 can be tested for?

11 A. Yes, it can.

12 Q. Moving back to the gloves that the government introduced,
13 that was -- are -- those gloves were also sent for gunshot
14 residue testing?

15 A. I took a sample from the gloves and sent that forward for
16 GSR, or gunshot residue, primer testing.

17 Q. And that's not a test that you do; there's a specialist
18 who does that test?

19 A. That's correct.

04:53 20 Q. And that would be John Drugan?

21 A. Yes.

22 Q. Similarly, the sweatshirt that you see before you on the
23 screen, was that sent for gunshot residue testing?

24 A. I did take another sample from the sweatshirt and I did
25 send that to John as well for gunshot residue testing.

1 MR. WATKINS: That's all I have. Thank you.

2 MR. WEINREB: I have nothing further.

3 THE COURT: All right. Thank you. You may step down.

4 (The witness is excused.)

5 MR. WEINREB: The United States calls Jennifer
6 Montgomery.

7 JENNIFER MONTGOMERY, duly sworn

8 THE CLERK: State your name and spell your last name
9 for the record, keep your voice up and speak into the mic.

04:54 10 THE WITNESS: My name is Jennifer Montgomery. Last
11 spelled is spelled M-O-N-T-G-O-M-E-R-Y.

12 DIRECT EXAMINATION

13 BY MR. WEINREB:

14 Q. Good afternoon, Ms. Montgomery.

15 A. Good afternoon.

16 Q. Where do you work?

17 A. I'm currently employed at the state police crime lab.

18 Q. What do you do at the crime lab?

19 A. I'm a Forensic Scientist 2 in the DNA unit and the
04:54 20 crime-scene response unit.

21 Q. So you're a DNA analyst?

22 A. Correct.

23 Q. How long have you worked at the crime lab?

24 A. Since May of 2008.

25 Q. Where did you go to school and what degrees did you earn?

1 A. I got my bachelor's of science in biology from UMass
2 Dartmouth and my master's of science with a concentration in
3 forensics from the University of Florida, Gainesville.

4 Q. After graduating with your master's degree in forensic
5 science but before joining the state police lab, did you do
6 other lab work?

7 A. Yes; I have approximately eight years' experience in
8 molecular biology and genetics labs.

9 Q. Do you have any specialized training in DNA analysis?

04:55 10 A. Yes. When I first started at the crime lab, I
11 participated in a six-month training program. This included
12 lectures as well as required readings and written and oral
13 exams. At the end of that training I took a competency test to
14 determine whether or not I was able to do casework, and I
15 passed that test and I've been a casework analyst since.

16 Q. Has there been additional testing of you over the years?

17 A. Yes.

18 Q. How frequently?

19 A. I'm given a proficiency test every six months.

04:56 20 Q. Have you always passed?

21 A. Yes.

22 Q. In the course of your work, how many DNA samples have you
23 analyzed?

24 A. Approximately 10,000.

25 Q. Are there occasions when as a result of your analysis you

1 have excluded a person by comparing the person's DNA to DNA
2 found at a crime scene?

3 A. Yes.

4 Q. How many times?

5 A. It happens all the time.

6 Q. As part of your job, are you expected to testify in court
7 about your examinations and the results of those examinations?

8 A. Yes.

9 Q. How many times have you testified in court?

04:56 10 A. Approximately 50 times.

11 MR. WEINREB: Your Honor, the government asks that
12 Ms. Montgomery be qualified as a DNA expert.

13 MR. WATKINS: No objection.

14 THE COURT: Okay.

15 BY MR. WEINREB:

16 Q. What is DNA?

17 A. DNA stands for deoxyribonucleic acid, and it's found in
18 almost all the cells of your body. You inherit a half from
19 your mother and half your DNA from your father, and it's
04:57 20 responsible for, among other things, physical traits such as
21 hair color, eye color and height.

22 Q. Is it sometimes referred to as the genetic blueprint for a
23 person?

24 A. Yes.

25 Q. Can you explain the process you used to analyze the DNA

1 evidence in this case?

2 A. Yes. I used a four-step process. The first step is
3 called extraction, and that's when we open the cells to release
4 the DNA. The second step is called quantitation, and that's
5 where we take a small amount of the sample and put it into a
6 machine which determines how much DNA we have in that sample.
7 The third step is called amplification, and that's where we
8 make millions and millions of copies of the DNA of interest.
9 And the fourth step is called separation, and that's where,
04:57 10 again, we take a small amount of the sample, put it into a
11 machine, and it separates out the DNA by size.

12 Q. Do the processes that you just described, are they
13 standardized processes that are followed at the state police
14 lab?

15 A. Yes.

16 Q. They're documented in protocols and procedures?

17 A. Correct.

18 Q. Did you follow all of those in doing your work in this
19 case?

04:58 20 A. Yes, I did.

21 Q. What do you do to make sure your work is accurate?

22 A. After I'm done with all of my testing, my file will be
23 reviewed by a senior analyst. They'll go through the whole
24 file and look for technical accuracy.

25 Q. Did you do DNA testing in connection with the murder of

1 Officer Sean Collier?

2 A. Yes, I did.

3 Q. Were you asked to compare Sean Collier's DNA to blood
4 found on the outside of two white gloves?

5 A. Yes.

6 Q. How did you obtain Sean Collier's DNA?

7 A. I obtained a known head hair standard from the OCME, and I
8 processed that using that same four-step process in order to
9 determine a DNA profile for him.

04:58 10 Q. So even in our hair you can find DNA?

11 A. Yes; it's in the root of the hair or a follicular tag
12 attached to the root.

13 Q. And how did you obtain blood from the outside of the two
14 white gloves?

15 A. A swab was taken by a criminalist and then given to me to
16 process through DNA.

17 Q. How were you able to identify it as blood from the outside
18 of the white gloves?

19 A. The criminalist will take notes and do testing to confirm
04:59 20 that.

21 Q. Was it also given a case number and an item number?

22 A. Yes.

23 Q. Do you know what the case number and item number were for
24 the two gloves?

25 A. Yes.

1 Q. What were they?

2 A. The case number was 13-8140, and the two items that I
3 tested were Item No. 12-9.1.1 and 12-9.2.1.

4 Q. So 12-9.1 is -- or 12-9 were the gloves?

5 A. Correct.

6 Q. And then 12-9.1?

7 A. Would be the swabs. And then the criminalist will take a
8 portion of those swabs and put that forward for DNA, saving the
9 other half.

04:59 10 Q. And that becomes 12-9.1.1?

11 A. Correct.

12 Q. Okay. Did the test tube indicate who had prepared the
13 sample?

14 A. Yes.

15 Q. Who?

16 A. Stephanie Waite.

17 Q. She's someone you work with regularly?

18 A. Yes.

19 Q. In your experience is her work reliable?

05:00 20 A. Yes.

21 Q. Were you able to develop a DNA profile for Sean Collier?

22 A. Yes, I was.

23 Q. Were you able to develop a DNA profile for the blood from
24 the outside of the white gloves?

25 A. Yes, I was.

1 MR. WEINREB: Can I have Exhibit 912 for the witness,
2 please.

3 Q. Does this diagram -- will this help you explain your
4 testimony if you have this up?

5 A. Yes.

6 Q. Okay.

7 MR. WEINREB: The government asks that 912 be
8 published.

9 MR. WATKINS: No objection.

05:00 10 THE COURT: Okay.

11 BY MR. WEINREB:

12 Q. What does it mean to develop a DNA profile for a person or
13 for an item like blood from the outside of gloves?

14 A. We're looking at 15 specific locations as well as one
15 location that tells us whether the sample is from a male or a
16 female.

17 Q. Okay. Now, let me just stop you there. By "locations,"
18 do you mean locations on the gloves or --

19 A. Locations on the chromosome.

05:01 20 Q. Explain what that means.

21 A. So we're looking at these 15 specific locations that are
22 highly variable from one person to the next, so it makes it
23 useful to use for forensic identity purposes.

24 Q. Okay. Locations on their DNA?

25 A. Yes.

1 Q. And you said they're highly variable from person to
2 person?

3 A. Correct.

4 Q. So everybody has those locations?

5 A. Yes.

6 Q. But you don't often find the same thing at that
7 location -- at a particular one of those locations in two
8 different people?

9 A. You can find it in two different people. But when you do
05:01 10 all 15 locations, only identical twins have the same profile.

11 Q. What is this -- let's just focus on the three columns on
12 the left-hand side of the page. Let's start with the first
13 column. What's in the first column.

14 A. Under "sample description," to the right of that is HHS,
15 Sean Collier. And "HHS" stands for "head hair standard." And
16 the item number is listed below that. And then along the
17 left-hand side, all of the numbers and letters represent the
18 different locations that we're looking at.

19 Q. Okay. Let me stop you right there. So it says -- just on
05:02 20 the left-hand column, the one where everything is bold on the
21 left, it says "sample description," then it says "item number."
22 That refers to these two items. 10-4.1 going across is the
23 Collier head hair sample, and then 12-9.3.1, that's one of the
24 samples from the outside of the glove?

25 A. Yes.

1 Q. All right. Now let's just -- on the left-hand column
2 there are a bunch of numbers that have a D or a C or a T in
3 front of them. What are those?

4 A. Those are just the specific locations on the chromosome
5 that we're looking at.

6 Q. So it's like an address?

7 A. Correct.

8 Q. And then in the second column, under the name "Sean
9 Collier" there are pairs of numbers?

05:03 10 A. Yes.

11 Q. What do those represent?

12 A. So the type of DNA testing that we do at the lab is called
13 DNA STR testing. "STR" stands for short tandem repeat, and
14 that just means we're -- it's a small section of DNA that
15 repeats itself over and over and over. And what we do at the
16 lab is count how many times that sequence repeats itself and
17 assign a number. So after -- underneath the head hair standard
18 for Sean Collier in the first column it says D8S1179.

19 Q. I'm sorry. You said the first column. You mean the first
05:03 20 row?

21 A. All the way on the left-hand column is the location --

22 Q. Yup.

23 A. -- and then at that location he has 13 repeats and 14
24 repeats.

25 Q. Okay. Why two numbers?

1 A. Because you inherit half your DNA from your mother and
2 half from your father.

3 Q. So at each address, you actually have two different sets
4 of repeats?

5 A. Yes. They can be the same. You can get the same repeat
6 from each parent.

7 Q. Go on.

8 A. So we just do that at each of those locations. And if you
9 go down towards the bottom, third from the bottom, there's a
05:04 10 location that says "AMEL," and next to it is an X and a Y. And
11 that means that this sample was obtained from a male.

12 Q. And then on the third column, "swab of red-brown stains on
13 the exterior dorsal side of the pinky of the left glove," what
14 are those numbers?

15 A. Those -- that is the profile that I developed from that
16 swab of red-brown stain.

17 Q. Okay. And at each address did the number of repeats in
18 the Sean Collier sample match the number of repeats in the
19 glove sample?

05:04 20 A. Yes. The sample -- the profile that I obtained from this
21 sample was a mixture with a major profile, and the minor
22 profile in this mixture was insufficient for comparison so I
23 didn't -- I wasn't able to make any comparisons to that. But I
24 was able to make a comparison to the major profile.

25 Q. Okay. And what were the results of your comparison?

1 A. The DNA profile obtained from this item indicated the
2 presence of a mixture of DNA from more than one source. The
3 major source of the DNA from this item has been interpreted,
4 and this major male profile matched the DNA profile from Sean
5 Collier.

6 Q. All right. Now let's go over to the next -- so just to
7 summarize, the blood that you found on the outside of the
8 gloves at that location was Sean Collier's blood?

9 A. At all of the locations, yes.

05:05 10 Q. Okay. But when I say "that location," I mean that
11 location on the glove.

12 A. Yes.

13 Q. On the outside of the glove.

14 All right. And then the next chart, you said you analyzed
15 another sample from the outside of the gloves?

16 A. Yes.

17 Q. And again, was the results of your analysis that the DNA
18 in the blood found on the outside of the gloves at that
19 location on the gloves was Sean Collier's blood?

05:06 20 A. Yes. This was a single-source profile, meaning only one
21 person was seen in the profile, and it was a match to the -- to
22 Sean Collier.

23 MR. WEINREB: Can I have Exhibit 914 for
24 identification, please.

25 MR. WATKINS: Your Honor, object. Notice.

1 THE COURT: Let me see you briefly.

2 (Discussion at sidebar and out of the hearing of the
3 jury:)

4 THE COURT: Is this the keys?

5 MS. CLARKE: Yes.

6 MR. WEINREB: Your Honor, at least six months ago we
7 sent the defense the report and an email stating that in
8 addition to her testifying about the gloves, that this witness
9 was going to talk about the keys. It wasn't in our initial
05:07 10 disclosure, that's true, because we got the report later. But,
11 in fact, we did give them the evidence many, many months ago
12 and in an email said we were going to use it.

13 THE COURT: Do you have it?

14 MR. WEINREB: The email?

15 MR. CHAKRAVARTY: We could get it. We need five
16 minutes.

17 MR. WATKINS: I don't think we ever got it. It's true
18 we have the report, but the strictures of 16(a)(1)(G) are
19 quite --

05:07 20 MS. CLARKE: It's not in there.

21 MR. WEINREB: This was the original disclosure. We
22 did it shortly afterwards because we got the report shortly
23 afterwards. But we did send the report with all of the
24 information.

25 THE COURT: Well, given what the testimony is likely

1 to be, I mean, is there prejudice?

2 MR. WATKINS: Well, your Honor, it wasn't noticed. I
3 mean, that's the bottom line.

4 MS. CLARKE: It's Sean Collier's blood on the keys.
5 And I don't know what the government's argument's going to be
6 but they're going to try to place our client in the driver's
7 seat leaving the scene.

8 THE COURT: I guess my question is: Would
9 the -- would your approach to this witness be any different if
05:08 10 you had received it?

11 MR. WATKINS: I don't know that there's a requirement
12 for that. There is a requirement of good cause shown on the
13 government. I don't know what the good cause would be at this
14 point.

15 THE COURT: They said they could get it. You're
16 saying you didn't get it. Those things happen. I don't know
17 who's right on that one. But if they're right, then -- we
18 could pause.

19 MR. CHAKRAVARTY: Five minutes, your Honor.

05:08 20 MR. WEINREB: Although we would argue -- although we
21 have the email, I don't know if there's any need to pause for
22 five minutes. We sent them a report saying Collier's blood was
23 found on the keys. And the one reason for doing that was
24 because we were notifying them this is the result that they
25 should expect to see in evidence.

1 THE COURT: Have you looked at the email since this
2 morning?

3 MR. CHAKRAVARTY: Not since this morning.

4 THE COURT: Let's take a short break and see if you
5 can get the email.

6 MS. PELLEGRINI: Okay.

7 (In open court:)

8 THE COURT: We're going to take a short recess.

9 THE CLERK: All rise for the jury. The Court will
05:09 10 take a short recess.

11 (The Court and jury exit the courtroom and there is a
12 recess in the proceedings at 2:52 p.m.)

13 THE CLERK: All rise for the Court.

14 (The Court enters the courtroom at 3:26 p.m.)

15 (Discussion at sidebar and out of the hearing of the
16 public:)

17 THE COURT: There's no jury here, but...

18 MR. WEINREB: So on June 30th we provided the defense
19 with an Excel spreadsheet of all the reports and experts' names
05:43 20 and CVs and everything else, and gave notice that the experts
21 would testify consistently with their reports. On August 15th
22 we provided this report, which is the report of the examination
23 of the car keys. The defense filed a motion -- because this
24 report was produced -- this examination was done and this
25 report was produced after this letter was sent. So we

1 supplemented by sending the report.

2 On September -- the defense meanwhile had filed a
3 motion saying that just giving them the reports, no matter how
4 detailed the reports were, was not sufficient and we needed to
5 do it in a narrative fashion, and the Court agreed. So on
6 September 2nd we provided them, in narrative fashion, an
7 extremely detailed account of how Jennifer Montgomery does her
8 DNA analysis. In that we did not reference the keys report,
9 although it had already been produced, because our argument
05:45 10 will be that the defense was already on notice that these
11 experts would testify consistently.

12 We subsequently did send them -- there was yet more
13 DNA testing done, this was the DNA testing of the hat found,
14 and we supplemented that so that there was a -- there was the
15 initial disclosure that the experts will testify consistent
16 with the reports, and then there was subsequent production of
17 reports over time along with a detailed explanation of the
18 witnesses' [sic] methodology --

19 THE COURT: Where is that?

05:45 20 MR. WEINREB: In here. It starts here.

21 (Pause.)

22 MR. WEINREB: As with any claim, under Rule 16 the
23 question should be did the defense have adequate notice and can
24 they show prejudice. If there's anything they can say they
25 would have done differently, they would have litigated this

1 case differently, they would have done some test differently,
2 they would have opened differently, anything if this were done
3 in any way different.

4 And I can't because they have had the report, knowing
5 that it was their client's DNA on the keys, ever since we
6 produced the report. We notified them. And the only reason we
7 were doing these tests and giving them these reports, as we
8 said, way back in June, the experts are going to testify
9 consistent with their reports, we were never asked for a single
05:47 10 bit of follow-up discovery, anything in connection with that
11 report although they acknowledge they've had the report since
12 August or September of 2014.

13 MR. WATKINS: Yeah, there have been dozens of reports,
14 dozens of tests, dozens of experts proposed that were
15 potentially available in this case. This September 2nd letter
16 is really the bible of the experts. It was hotly litigated
17 about when the government would --

18 THE COURT: Did this happen before? Where's Jane?
19 This happened before. The volume all of a sudden kicks out.

05:47 20 MR. WATKINS: What's that?

21 THE COURT: The volume kicks out. It's like the
22 delays on the pictures.

23 MR. WATKINS: So the -- the fact of the matter is
24 there's not notice there about the keys, there's not notice
25 anywhere about the keys. The knit cap, indeed they noticed

1 that. There was no particular reason for us to argue that
2 there wasn't good cause once they did notice us, but they did
3 not notice us on the keys and have not.

4 We -- I should note that we did file a motion to
5 exclude DNA results. We did not argue about the keys' DNA
6 results.

7 THE COURT: It wasn't Collier's DNA results you were
8 trying to exclude.

9 MR. WATKINS: Well, that's correct. To the extent
05:48 10 that the government is suggesting that the issue was somehow
11 joined, I don't think that it was. I don't think there's any
12 evidence of that.

13 THE COURT: And how would you have done things
14 differently if you had known?

15 MR. WATKINS: Your Honor, I can't say how we would
16 have done things differently. What I can say is that we
17 noticed that it was not in here. We did not concentrate on
18 that. We did concentrate on the many other experts that there
19 are in this case. As the Court knows, there are very
05:48 20 complicated and very complex on a number of different -- there
21 is a reason the rule requires that there be notice or otherwise
22 good cause for late notice. There's simply not good cause for
23 this late notice at the beginning of the case.

24 THE COURT: Well --

25 MR. WATKINS: I don't think it's the determinative

1 argument, but there's plenty of other evidence that the
2 government has available to them.

3 MR. WEINREB: Your Honor, we can give notice today and
4 put the expert -- call the expert a week from now. There's
5 still nothing different that they're going to say next week.

6 MR. CHAKRAVARTY: The only reason for disclosing this
7 report was so -- it's a Rule 16 disclosure related to the
8 expert. It's not exculpatory --

9 MR. WATKINS: That doesn't do it. We received
05:49 10 literally dozens, if not hundreds of, quote/unquote, expert
11 reports in this case, all -- many of which the government did
12 not use, declined to use for whatever reason. The fact that
13 they disclosed a report that's good enough for notice is simply
14 not adequate.

15 MR. WEINREB: I agree. But there's also the letters.

16 MR. WATKINS: But that's as broad as they get.

17 THE COURT: I'll let you re-call the expert next week
18 if you want.

19 MR. WEINREB: Okay.

05:50 20 THE COURT: Okay? You have notice now. Whatever you
21 can negotiate on the timing.

22 MR. WEINREB: Okay.

23 (In open court:)

24 THE CLERK: All rise for the jury.

25 (The jury enters the courtroom at 3:34 p.m.)

1 THE CLERK: Be seated.

2 THE COURT: Go ahead.

3 MR. WEINREB: Your Honor, we have no further questions
4 for Jennifer Montgomery at this time subject to re-calling her
5 at a later date.

6 THE COURT: All right.

7 MR. WEINREB: The United States calls Special Agent --

8 MR. WATKINS: I'm sorry. I'm going to do some
9 cross-examination.

05:51 10 MR. WEINREB: Oh, I'm sorry. I thought we were going
11 to do that at a later date but evidently we'll do it now.

12 THE COURT: Is Ms. Montgomery here?

13 JENNIFER MONTGOMERY, resumed

14 CROSS-EXAMINATION

15 BY MR. WATKINS:

16 Q. Good afternoon, Ms. Montgomery.

17 A. Good afternoon.

18 Q. In addition to the gloves that you tested, were you also
19 asked to test a sweatshirt that was -- belonged to Dzhokhar
05:52 20 Tsarnaev?

21 A. Yes; I tested eight samples that were taken from the
22 sweatshirt.

23 Q. And in preparation for that -- doing that comparison, you
24 talked with Mr. Weinreb about developing DNA profiles. Did you
25 also develop DNA profiles for Dzhokhar Tsarnaev and for

1 Tamerlan Tsarnaev?

2 A. Yes, I did.

3 Q. And that's in addition to the profile that was developed
4 for Sean Collier?

5 A. Correct.

6 Q. And when you did that testing of the eight separate spots
7 on the sweatshirt of Dzhokhar Tsarnaev, were you able to
8 develop a DNA profile from that?

9 A. Yes, I was.

05:53 10 Q. You talked a little bit about single profiles versus
11 mixtures. Was this a single profile or a mixture?

12 A. They were all single-source profiles.

13 Q. And when you compared the single-source profile to those
14 eight spots, did they match Tamerlan Tsarnaev's?

15 A. No, they did not.

16 Q. Those eight spots on the sweatshirt, do you recall where
17 on the sweatshirt you developed those from?

18 A. They were swabs taken by the criminalist on various areas
19 on the exterior of the sweatshirt including the arms, the cuffs
05:54 20 of the sweatshirt, I believe the abdomen.

21 Q. And are you able to show the jury where on yourself those
22 were taken from?

23 A. Yes. If I can refer to my notes?

24 Q. Absolutely.

25 A. Item No. 15-3.3.1, swab of red-brown saturation stain on

1 lower exterior front and back of right sleeve near cuff, so in
2 this area.

3 Q. Thank you.

4 A. Do you want me to do all seven?

5 Q. Yes, please.

6 A. 15-3.4.1 was a swab of a red-brown stain on the exterior
7 front right sleeve near shoulder of sweatshirt, so the exterior
8 front right.

9 15-3.6.1, swab of red-brown saturation stain on exterior
05:54 10 abdomen, so in this area.

11 15-3.8.1, swab of red-brown saturation stain on middle
12 portion of exterior front right sleeve of sweatshirt, so this
13 area.

14 5-3.10.1, swab of red-brown saturation stain on exterior
15 back right shoulder of sweatshirt, so back here.

16 15-3.9.1, swab of 5 millimeter times 3 millimeter
17 red-brown stain on middle portion of exterior front right
18 sleeve, so right in this area.

19 5-3.11.1, swab of red-brown stain on exterior lower right
05:55 20 back of sweatshirt, back here.

21 15-3.2.1, swab of red-brown stain on exterior front left
22 sleeve of sweatshirt, so here.

23 Q. You talked about finding -- doing a DNA profile on part of
24 the abdomen. I don't think we could see that terribly clearly.
25 Could you perhaps stand up and demonstrate to the jury what

1 part?

2 A. The abdomen would be right here.

3 Q. Thank you.

4 And the results of that single-source profile, when you
5 compared it to Sean Collier's blood, what was the outcome?

6 A. He could not have been a source of the DNA on those items.

7 Q. And when you compared the single-source profile from those
8 eight spots on the sweatshirt, did that match Dzhokhar
9 Tsarnaev?

05:56 10 A. Yes, it did.

11 Q. So all of the spots that were tested were from Dzhokhar
12 Tsarnaev and no one else?

13 A. Correct.

14 MR. WATKINS: I have nothing further, your Honor.

15 MR. WEINREB: Just briefly.

16 REDIRECT EXAMINATION

17 BY MR. WEINREB:

18 Q. Ms. Montgomery, you say that you tested swabs that were
19 taken from various areas on the sweatshirt?

05:56 20 A. Yes.

21 Q. So a swab of a particular area, it just picks up the blood
22 in that area, correct?

23 A. Correct.

24 Q. It doesn't pick up all the blood in all the areas?

25 A. No, just that specific area that the sample was taken

1 from.

2 Q. Right. And if there was an area that wasn't swabbed, then
3 we wouldn't know whose blood that was, correct?

4 A. Correct.

5 Q. And even if there was an area that was swabbed, if the
6 swab didn't happen to hit the entire area, cover all of it,
7 then you wouldn't know necessarily whose blood that was,
8 correct?

9 A. Correct.

05:57 10 Q. And if somebody is swabbing areas of blood on a sweatshirt
11 but there are, let's say, little pinpoints of blood or tiny
12 droplets of blood elsewhere --

13 MR. WATKINS: I'm going to object at this point.

14 THE COURT: Sustained.

15 BY MR. WEINREB:

16 Q. Do you know whether every single droplet of blood on that
17 sweatshirt was swabbed?

18 MR. WATKINS: I object.

19 THE COURT: You may answer that.

05:57 20 THE WITNESS: I do not know.

21 BY MR. WEINREB:

22 Q. Do you know whether it is -- whether there was a request
23 that every single droplet of blood be swabbed?

24 MR. WATKINS: I'm going to object.

25 THE COURT: Sustained.

1 BY MR. WEINREB:

2 Q. All you can say is that the swabs that you happened to
3 test did not have anyone's blood besides Dzhokhar Tsarnaev's?

4 A. Correct.

5 MR. WEINREB: No further questions.

6 MR. WATKINS: Just one.

7 RECROSS-EXAMINATION

8 BY MR. WATKINS:

9 Q. I think on direct examination you talked about working
05:58 10 with Stephanie Waite?

11 A. Yes.

12 Q. And you worked with her for years?

13 A. Yes.

14 Q. I believe you told Mr. Weinreb that she's very
15 experienced?

16 A. Yes.

17 Q. And she would be the one that would determine where to
18 test from, correct?

19 A. She's the one that samples the sweatshirt, yes.

05:58 20 Q. So do you rely on her experience to look for every single
21 spot that was testable?

22 MR. WEINREB: Objection.

23 THE COURT: Yes, sustained.

24 MR. WATKINS: I have nothing further. Thank you.

25 THE COURT: Okay. Thank you, Ms. Montgomery. You may

1 step down.

2 (The witness is excused.)

3 MR. WEINREB: The United States calls Special Agent
4 Brian Corcoran.

5 BRIAN J. CORCORAN, JR., duly sworn

6 THE CLERK: Have a seat. State your name, spell your
7 last name for the record, keep your voice up and speak into the
8 mic.

9 THE WITNESS: Brian J. Corcoran, C-O-R-C-O-R-A-N, JR.

05:59 10 DIRECT EXAMINATION

11 BY MR. WEINREB:

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. Where do you work?

15 A. I work for the Federal Bureau of Investigation in Boston.

16 Q. How long have you worked there?

17 A. Five years in April.

18 Q. What is your current job assignment?

19 A. My current job assignment is a special agent bomb
06:00 20 technician.

21 Q. How long have you been a bomb technician?

22 A. Since May of 2012.

23 Q. What are the responsibilities of a bomb technician at the
24 FBI?

25 A. The FBI, we are tasked with training state and local

1 partners; assisting on any call-outs, whether they be real
2 devices or hoax devices; maintaining communication with those
3 partners for any type of investigative purposes such as
4 counterterrorism investigations; or any explosive incidents
5 involving WMDs.

6 Q. As part of your training as a bomb technician, did you
7 learn how to recognize explosive devices and components?

8 A. Yes.

9 Q. Did you learn how to handle them safely?

06:00 10 A. Yes.

11 Q. And proper procedure for taking them into evidence?

12 A. Yes.

13 Q. Did you participate in the marathon bombing investigation?

14 A. I did.

15 Q. Was that both on April 15th when the bombing occurred, and
16 then later on April 18th, 19th, 20th, up at the Watertown crime
17 scene?

18 A. Correct; all occurrences.

19 Q. When did you -- did you go to the Watertown crime scene?

06:01 20 A. Correct. I was called there as part of a larger response
21 back to the field office. Tasked as a special agent bomb tech,
22 we were sent directly to the scene to assist state, local and
23 other and federal assets.

24 Q. When did you arrive there?

25 A. Middle morning. I would say approximately three,

1 three-thirty. Once I was on-scene, the two devices that were
2 loaded into TCV were already currently in there. The techs had
3 just finished clearing the Civic for what they felt were any
4 devices in there as well as a general safety sweep.

5 Q. Okay. So you said 3:30. That's 3:30 in the morning?

6 A. Correct; a.m., 19th.

7 Q. And the two devices that had been cleared, what were those
8 two devices?

9 A. So as I arrived on-scene, I was briefed that there were
06:02 10 two pipe bombs. I was told they were a little irregular
11 because they were internally threaded. They were located out
12 on the street and placed in a TCV via robot. And those were
13 the two main hazards that they had identified that were still
14 active.

15 Q. And TCV, that's total containment vessel, a safe vessel
16 for putting a potentially live bomb into?

17 A. Correct.

18 Q. You said the Honda Civic had been cleared?

19 A. Correct.

06:02 20 Q. That was the Honda Civic on the street?

21 A. The Honda Civic was on the street on Laurel somewhere
22 just -- I would say just east of 56 or 55 Laurel.

23 Q. What did you personally do after you arrived?

24 A. So after we arrived, the techs that were down-scene
25 returned. Myself, along with other state and local techs,

1 proceeded to do a quick search down the street for any
2 remaining devices that may not have been as obvious. We were
3 obviously interested in getting the residents out of their
4 house, based on what had happened earlier, did what they call a
5 secondary search, which is when you're looking for those
6 devices, not necessarily in a full bomb suit but in protective
7 gear. Once we did that, pulled back --

8 Q. Let me stop you. So were any additional live devices
9 found?

06:03 10 A. No.

11 Q. Okay. Continue.

12 A. Pulled back towards the corner of Dexter and Laurel where
13 the TCV was still located, hadn't left the scene yet.
14 Residents were evacuated from the house, the ones that were
15 remaining that had not left, the rear of the residences, and we
16 basically formulated a plan as far as evidence recovery for
17 that portion of the street.

18 Q. Okay. So everybody who lived on that block of Laurel
19 Street was asked to leave their homes?

06:03 20 A. Correct.

21 Q. Why was that?

22 A. Obviously, we still had somebody at large in the area.
23 There was a concern that, A, he could have been in any of the
24 houses, so we were doing it primarily to see if someone was in
25 any of those houses. And even though a secondary search was

1 done, you never know what you're really going to find out there
2 when you're working the scene of an active explosion.

3 Q. By the time all of that was done, what time of day was it?

4 A. It was approximately -- I mean, I couldn't give you the
5 time of day. It was daylight. The sun was starting to come up
6 at that time.

7 Q. So it was around dawn?

8 A. Correct.

9 Q. What happened after all that was done and the sun began to
06:04 10 rise?

11 A. At that point we gathered all the assets that were down
12 there, state local and federal.

13 Q. Okay. Assets: That's police talk for law enforcement
14 officers and --

15 A. Right. Law enforcement officers which would consist of
16 patrol officers, evidence response personnel that are tasked
17 with gathering up evidence, as well as techs -- bomb techs that
18 know how to handle those various devices should you come upon
19 one.

06:04 20 Q. So all those people gathered. And what happened?

21 A. At that point we formulated a plan. Based on the number
22 of personnel onsite -- Massachusetts State Police had a large
23 amount of personnel there that had responded from the MIT
24 scene. Based on that and the fact that FBI personnel, largely
25 ERT, were still processing Boylston --

1 Q. ERT?

2 A. Evidence response technicians.

3 Q. People who collect evidence?

4 A. Correct.

5 Q. They're still down at the marathon bombing scene?

6 A. They are preparing for that day, to work down at Boylston,
7 to finish up the evidence collection down there, as well as any
8 other scenes they may have been tasked to at that point in the
9 morning. At that point we had identification for one of the

06:05 10 subjects, and they were basically staging to go to another
11 location to gather evidence.

12 Q. So there were a lot of Massachusetts State Police
13 officers?

14 A. Correct.

15 Q. And members of other state and local law enforcement
16 agencies?

17 A. Correct.

18 Q. How did you go about beginning to process the crime scene
19 up on Laurel Street?

06:05 20 A. So as part of that we basically divided the total crime
21 scene into a ballistics portion and a potential explosives and
22 intelligence portion. For the intelligence and explosives
23 portion, that's, you know, where I came in. And Mass. State
24 Police basically divided the street, Laurel Street, into three
25 different zones: A, B and C. A was the north side of the

1 street, including the yards, residential areas, the house, side
2 yards; B was the center part of the street; and C was the south
3 side, or the odd numbers going down the street.

4 Q. So those are geographic zones?

5 A. Correct.

6 Q. And then when you said explosives portion and ballistics
7 portion, you're talking about teams with different purposes?

8 A. Correct.

9 Q. Okay. What was the purpose of the explosives group?

06:06 10 A. So ours was what you would consider post-blast recovery.

11 So we're basically going around, looking for evidence of the
12 actual explosion, whether that be any type of powders,
13 fragmentation, containers, concealment devices, anything along
14 those means, and like I said also, the intelligence that may
15 tie that to something else as well.

16 Q. Okay. So what's fragmentation?

17 A. So fragmentation can come in a variety of different forms.
18 It can be either loose-packed, whether it be BBs, nails, brads,
19 or it can be the actual container that holds what is the bomb,
06:07 20 whether it's the explosives -- you know, high explosive or low
21 explosive -- all contained in there. And then the actual
22 container can become fragmentation as it separates and it's
23 sent down the street.

24 Q. So it's called fragmentation because when it blows up it
25 turns into fragments of something?

1 A. Correct.

2 Q. What happened when you identified one of those types of
3 explosives' evidence on the street or in a yard or in a house
4 or somewhere else?

5 A. Certainly. So as you work your way down the street, if
6 something was noticed it was placarded.

7 Q. What does that mean?

8 A. It means using a small -- and depending on which side you
9 were, there were a variety of different things used out there.

06:07 10 So it would be either a small triangle that has a number on it,
11 it could be a cone with a number on it, or in some cases based
12 on the total volume, we just had so much, they actually used
13 chalk with a number adjacent to it. Each one of the zones was
14 broken out. And obviously, as you work through 1 through 100,
15 you don't want to have any confusion across the zones.

16 Q. Okay. And within each zone, each placard had a unique
17 number?

18 A. Correct.

19 Q. Like one, two, three, four, five?

06:08 20 A. Correct.

21 Q. And what's the purpose of marking a piece of evidence with
22 a numbered placard or a circle or a cone?

23 A. So basically, you want to tie it -- ultimately, as you go
24 through the investigation, you want to be able to tie it
25 together throughout the course of events. So you're going to

1 have that number there that's always associated with that piece
2 of evidence. It will be photographed as such, both from a far
3 distance and up-close so you get a good idea of where it was
4 and then the specific detail of it. And also, once the
5 evidence is ultimately collected, it's written on the bag,
6 signed by the collector, and it has that unique identifier tied
7 to it at that point.

8 Q. So Step 1 is identify the item?

9 A. Correct.

06:08 10 Q. Step 2 is put down the placard?

11 A. Correct.

12 Q. Step 3 is photograph it?

13 A. Correct.

14 Q. And then Step 4 is collect it?

15 A. Correct.

16 Q. All right. Were you aware that some evidence are also GPS
17 readings being taken?

18 A. Yes. The Massachusetts State Police in the course of this
19 investigation was able to use GPS coordinates. I know that
06:08 20 they did that 100 percent for the firearms portion, and I'm not
21 sure if they did it 100 percent for the explosives portion.

22 Q. Once explosives' evidence on the scene was marked,
23 photographed, collected, bagged and documented in the way
24 you've described, what physically happened to it? Where did it
25 go?

1 A. So in this case, since Massachusetts State Police was the
2 lead agency for the actual collection of it, they collected it.
3 As the FBI, we had specific interests in a portion of it based
4 on its intelligence or things that could basically tie it to
5 someone, whether we could get some type of forensics off of it
6 or whether it matched other devices we had previously seen.
7 Those devices we asked for that day, on the 19th, to be turned
8 over directly to the FBI.

9 Q. Okay. So when you say they have intelligence value, you
06:09 10 mean they can teach you something about the crime, perhaps give
11 you a lead?

12 A. Certainly. So for a device, it could be something in how
13 it was constructed, you know, what the initiation system was,
14 or also, the intelligence we were interested in is if there's
15 any electronics out there, maybe something we can pull
16 forensics off of, whether it be -- tape often catches quite a
17 bit as far as fingerprint detail. So things of that nature
18 we're interested in to get down to our lab as soon as possible.

19 Q. So how did they make their way to the lab?

06:10 20 A. So in the course of this investigation, state police
21 collected it, I immediately took custody of it. We took it to
22 our command post that we had set up in Watertown that day at
23 which point it was assigned an FBI number, transferred to Black
24 Falcon, and placed on a plane that evening to go to Quantico.
25 We were making at least one, if not two, trips to Quantico each

1 day with a plane to get the evidence down there for immediate
2 inspection.

3 Q. In the course of doing your secondary search down Laurel
4 Street to make sure it was safe, did you encounter a computer
5 bag that was lying on the ground?

6 A. I did.

7 Q. Do you know how that computer bag was handled when it was
8 discovered?

9 A. When we came out to the scene during the initial brief, we
06:11 10 were told that as part of the Civic -- the Honda Civic that was
11 on-scene clear, the bomb techs did remove some items from the
12 car, one specific item being that laptop bag.

13 Q. So that came out of the Honda?

14 A. Correct.

15 Q. And where did it go?

16 A. So it went to the rear passenger side of the vehicle in
17 the street.

18 Q. Okay. So once it was cleared and -- was it deemed safe at
19 that point?

06:11 20 A. When the scene was turned over to us, it was, "us" being
21 the collectors for that portion of the day. The techs that
22 were out there that did some of the initial work had to respond
23 to another scene, so they had left at that point.

24 Q. Did somebody then take a further look into the bag?

25 A. So as we worked our way down the street, one of the

1 personnel that was out there, a non-bomb tech, looked inside of
2 the bag and saw a piece of electronics equipment that looked
3 like it was modified, drew a little suspicion on their part.
4 At that point the attention of the bomb techs on-scene was
5 flagged and we were asked to take a closer look at it.

6 In an abundance of caution, we x-rayed that bag just to
7 determine there was nothing in there that was missed earlier.
8 Obviously, it was dark when a lot of the other work was done,
9 so we just wanted to be safe for everybody out there. It was
06:12 10 deemed that there was no IED in there, there wasn't the other
11 components required to form an explosive, but there was a piece
12 of modified electronics in that bag.

13 Q. The contents of that bag, what happened to them?

14 A. So they were taken out of the bag, photographed on ground
15 in place. And obviously, the bag itself before it was removed
16 was photographed in place. Everything was laid out --

17 MR. WATKINS: Objection, your Honor. Could we see if
18 this is personal knowledge?

19 THE COURT: Go ahead.

06:12 20 BY MR. WEINREB:

21 Q. Do you have personal knowledge of what you're talking
22 about?

23 A. Yes; I was there for it. I witnessed it being removed
24 from the bag, I personally took the transmitter out of the bag
25 and questioned the modified electronics.

1 Q. Please continue.

2 A. So those items were removed from the bag, photographed in
3 place and collected.

4 MR. WEINREB: Can I have the Exhibit 772 for the
5 witness? Actually, this is in evidence so we could have it for
6 everyone.

7 Q. Do you recognize this?

8 A. This appears to be Laurel Street going this way across the
9 street with the intersection of Dexter traveling down.

06:13 10 MR. WEINREB: Your Honor, at this point I intend to
11 show just the witness a lengthy series of photos and ask him at
12 the end if they're fair and -- fair and authentic copies of
13 what he saw on the scene, and then I would propose to move them
14 all into evidence at once.

15 THE COURT: All right.

16 MR. WEINREB: So with the Court's permission, I'll
17 begin. Can we have Exhibit 948-524.

18 BY MR. WEINREB:

19 Q. Do you recognize that?

06:14 20 A. That is the computer bag that we discussed. At this point
21 what was inside of the bag -- at least some of the items. Not
22 all of them -- are on top of the bag. You see two specific
23 ones there: one being the transmitter, closest to us, and one
24 which appears to be the HTC phone that was inside of the bag in
25 the center of the bag.

1 Q. Is that a fair and accurate photo of the objects as they
2 appeared the day that you saw them?

3 A. Yes.

4 MR. WEINREB: 948-525, please.

5 Q. Again, is that a fair and accurate photo?

6 A. That is.

7 MR. WEINREB: 948-532.

8 Q. Fair and accurate photo?

9 A. It is.

06:15 10 MR. WEINREB: Mr. Bruemmer, can you bring up the
11 photos now -- I'm not going to give the 948- prefix, but that's
12 true for all of them. 541.

13 Q. Fair and accurate photo?

14 A. Yes.

15 MR. WEINREB: 542.

16 Q. Is that a fair and accurate photo?

17 A. Yes.

18 MR. WEINREB: 533.

19 Q. What's this a photo of?

06:15 20 A. That is a bag, opens like a typical messenger bag, that
21 was on the street, not removed from the Civic per the techs
22 that cleared it.

23 Q. Is that a fair and accurate photo?

24 A. It is.

25 MR. WEINREB: 534, please.

1 Q. Is that a fair and accurate close-up?

2 A. It is.

3 MR. WEINREB: 535, please.

4 Q. Again, fair and accurate?

5 A. It is.

6 MR. WEINREB: 536, please.

7 Q. Is that an item that was inside the bag?

8 A. It is, both items.

9 Q. Both items. And is that a fair and accurate photo?

06:16 10 A. They are.

11 MR. WEINREB: 537, please.

12 Q. Again, a fair and accurate photo?

13 A. It is.

14 MR. WEINREB: 10, please. 948-10.

15 THE CLERK: I'm sorry, Mr. Weinreb. I didn't hear the
16 number.

17 MR. WEINREB: 948-10.

18 BY MR. WEINREB:

19 Q. What is that a photo of?

06:16 20 A. That is a photo of a Honda four-door with the rear
21 driver's side door where a pressure cooker is embedded in the
22 lower portion of it.

23 Q. Okay. That's not the same Honda that was in the middle of
24 the street?

25 A. That is not.

1 Q. Is this some person's Honda who was parked in the
2 driveway?

3 A. Correct.

4 Q. Is that a fair and accurate photo?

5 A. It is.

6 MR. WEINREB: 948-11, please.

7 Q. And is that a fair and accurate close-up?

8 A. It is.

9 MR. WEINREB: -12, please.

06:17 10 Q. Again, fair and accurate close-up?

11 A. It is.

12 MR. WEINREB: -305, please.

13 Q. Fair and accurate close-up?

14 A. Yes.

15 MR. WEINREB: -306, please.

16 Q. And is that a fair and accurate close-up?

17 A. It is.

18 MR. WEINREB: Now, 948-72, please.

19 Q. Do you recognize that?

06:17 20 A. I do. That is a residence on the south side of Laurel. I
21 believe it's Residence No. 53.

22 Q. Is that a fair and accurate photo of how the residence
23 appeared on the morning when you were doing your evidence
24 collection?

25 A. That morning it was, yes.

1 MR. WEINREB: 948-73, please.

2 Q. Is that a fair and accurate close-up?

3 A. Yes.

4 MR. WEINREB: -74, please.

5 Q. That's a fair and accurate photo?

6 A. Correct, yes.

7 MR. WEINREB: -75.

8 Q. Also fair and accurate?

9 A. Yes, it is.

06:18 10 MR. WEINREB: -76.

11 Q. Again, fair and accurate?

12 A. Yes, it is.

13 MR. WEINREB: 948-253, please.

14 Q. Is that a photo of an item that was collected at the
15 scene?

16 A. It is.

17 Q. And is it a fair and accurate photo of it?

18 A. It is.

19 MR. WEINREB: -355, please.

06:18 20 Q. Is that a close-up of it?

21 A. It is.

22 MR. WEINREB: -99, please.

23 Q. Do you recognize that?

24 A. I do.

25 Q. What is it?

1 A. That is the residence of 55 and 57 Laurel also on the
2 south side of Laurel Street.

3 Q. Is that how it appeared on the morning when the evidence
4 collection was taking place?

5 A. It was.

6 MR. WEINREB: -100, please.

7 Q. Is that a close-up of the same house?

8 A. It is.

9 MR. WEINREB: -101, please.

06:19 10 Q. Same thing?

11 A. It is.

12 MR. WEINREB: -102, -103 and -104.

13 Q. Are these all fair and accurate photos of that house and
14 an object that was removed from it?

15 A. It is.

16 MR. WEINREB: -307.

17 Q. Do you recognize that?

18 A. This residence is at the intersection of Laurel and Dexter
19 on the north side of the street.

06:20 20 Q. Is that how it appeared during the day you did the
21 evidence collection?

22 A. Yes.

23 MR. WEINREB: -308, please, -309, -310.

24 Q. Are these all fair and accurate photos of that house, the
25 lawn beside it, and an item that was recovered from the lawn?

1 A. Yes, they are.

2 MR. WEINREB: -416.

3 Q. Do you recognize that?

4 A. That is obviously during the night when we arove [sic]
5 there. That is the intersection of Dexter and Laurel that is
6 looking west down Dexter.

7 Q. And so away from where the --

8 A. Away from the scene would be behind us where the Civic is,
9 correct.

06:20 10 MR. WEINREB: -417, please.

11 Q. Are those two fair and accurate photos of that area and
12 the item that was found there?

13 A. They are.

14 MR. WEINREB: -39, please.

15 THE CLERK: What's the number?

16 MR. WEINREB: 948-39.

17 BY MR. WEINREB:

18 Q. What's that a photo of?

19 A. So that is looking at the same exhibit you just pointed
06:21 20 out of the same picture, but looking east down Laurel toward
21 the scene. Same intersection with Dexter going across.

22 MR. WEINREB: -37 and -38.

23 Q. Are those fair and accurate photos of that scene and an
24 item that was recovered there?

25 A. They are.

1 MR. WEINREB: -210, please, and -211.

2 Q. Are those fair and accurate photos of an address on Laurel
3 Street and an item that was recovered there?

4 A. Yes. That is in front of 55 Laurel, correct.

5 MR. WEINREB: -552, -553, -33 and -34.

6 Q. Once again, are those four photos fair and accurate photos
7 of a house on Laurel Street and an item that was recovered
8 there?

9 A. Yes, they are.

06:22 10 MR. WEINREB: -40, please, -41.

11 Q. Are those fair and accurate photos of the location on
12 Laurel Street and an item that was recovered there?

13 A. Yes, they are.

14 MR. WEINREB: Your Honor, at this time the government
15 offers all of the preceding identified exhibits into evidence.

16 MR. WATKINS: No objection.

17 THE COURT: Okay. They are all admitted.

18 (Government Exhibit Nos. 948-524 and 948-525, 948-532,
19 948-541 and 948-542, 948-533 through 948-537, 948-10 through
20 948-12, 948-305, 948-30, 948-72 through 948-76, 948-253,
21 948-355, 948-99 through 948-104, 948-307 through 948-310,
22 948-416 and 948-417, 948-38 and 948-39, 948-210 and 948-211,
23 948-552 and 948-553, 948-33 and 948-34, 948-40, received into
24 evidence.)

25 THE COURT: I think that's as far as we'll go today

1 with the witness.

2 Jurors, again we'll recess. I remind you of my
3 instructions again to avoid any discussion of the case, any
4 contact with any news reporting about the case. And we'll see
5 you in the morning and continue with the evidence.

6 Thank you.

7 THE CLERK: All rise for the Court and the jury.
8 Court will be in recess.

9 (The Court and jury exit the courtroom and the
10 proceedings adjourned at 4:06 p.m.)
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C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev.

/s/ Marcia G. Patrisso
MARCIA G. PATRISSE, RMR, CRR
Official Court Reporter

Date: 10/13/15